

STATE OF CALIFORNIA  
MEETING OF THE  
CALIFORNIA INSPECTION & MAINTENANCE REVIEW  
COMMITTEE

Tuesday, October 24, 2006

California Department of Consumer Affairs  
1625 N. Market Blvd., Hearing Room, First Floor  
Sacramento, California

1 **MEMBERS PRESENT:**

2 VICTOR WEISSER, Chairman

3 JEFFREY WILLIAMS

4 ROGER NICKEY

5 BRUCE HOTCHKISS

6 ELDON HEASTON

7 JUDITH LAMARE

8 JOHN HISSERICH

9  
10 **MEMBERS ABSENT:**

11 ROBERT PEARMAN

12 GIDEON KRACOV

13 DENNIS DECOTA

14 PAUL ARNEY

15  
16 **ALSO PRESENT:**

17 ROCKY CARLISLE, Executive Officer

18 STEVE GOULD, Consultant

19 JANET BAKER, Administrative Staff

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P R O C E E D I N G S

(Beginning of session not recorded.)

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MR. RICE: ... is what's happened. You've got the regulators that are looking for the durable repairs as the presentation was about. You've got the public that just wants a smog test and they'd like to get a certificate at the lowest cost possible. Then you've got the shops that are performing the tests, and I'll tell you that they want to do a good job and do a good check. There's some crooks out there, I'll admit to that. But for the most part, the shops are trying to do a good test. It's when those cars fail that there seems to be an issue going on here. The problem is at the shop level, you're a little bit hamstrung as to what it is you're going to do next. Early on in the process, I think it was this year, we talked about preconditioning and how preconditioning was a problem and from that came some thoughts or ideas about a process to go through a precondition and that might help shops in the ends. What's going on here, though, is that you've got shops that aren't sure what to do next. In the room here today, you've got regulators and the guys that perform tests, but I don't know how many guys are in the room that actually fix the cars. Maybe it's just me. And I'll tell you that in that process, you don't know what to do next. Here's an example. You

1 might say - and I've said this to you guys before, a car  
2 comes in, fails the smog test, you do a diagnostic on it.  
3 One of the spark plug wires is open and you say to the  
4 customer, Mr. Customer, you've got a spark plug wire here  
5 that's open, your emissions are high. I think if I replace  
6 this one spark plug, you're going to be okay. Do you think  
7 one spark is the answer - one spark plug wire is the answer  
8 or on an eight-cylinder car, is eight spark plug wires the  
9 answer? Because the truth of the matter is if you replace  
10 the one spark plug wire, and since the other spark plug  
11 wires are facing the same operating condition as the one  
12 that went bad, it won't be long before another one goes out.  
13 Well, what am I supposed to do? Am I supposed to tell the  
14 guy if we replace one, that'll get you to pass the smog test  
15 and you'll be back on the road again, or replace all eight?  
16 Even though I can't demonstrate today that the other seven  
17 are bad? So what do you do? You know, it's almost like  
18 you're faced with a process of what does the State want you  
19 to do in terms of the sales process? If Alan came up to me  
20 and said, Bud, here's what I want you to do. Here's a sheet  
21 that the BAR has approved and I want you to tell the  
22 customer what it would take to get a pass and then what you  
23 would recommend to get a wider variance in passing, of  
24 better reduction, and here's what those (alarm sound). If  
25 you make that presentation and then they get to choose. Can

1 I go just for a minute?

2 CHAIR WEISSER: I'm going to keep you there, but I'm going to  
3 stop you. I want you to just stay up here and we're going  
4 get back to you, but I want everyone to have their turn, if  
5 that's okay, Bud.

6 MR. RICE: Sure.

7 CHAIR WEISSER: So we have to keep this in mind, otherwise we'll  
8 be treating people unfairly. Just stay seated. I think  
9 people can move up. We'll ask Randy to step up. Randy?

10 MR. WARD: Good morning, Randy Ward, Executive Director of the  
11 California Emissions Testing Industries Association.

12 CHAIR WEISSER: Is your green button glowing?

13 MR. WARD: Okay. Randy Ward, Executive Director of the  
14 California Emissions Testing Industries Association. My  
15 initial reaction was much as Bud's, that preconditioning is  
16 a huge variable on these tests and I would also emphasize  
17 Roger's comment that you have a lot of other variables in  
18 the environment that can impact a test, but that percentage  
19 I was as astounded as you, Mr. Chair, of the vehicles that  
20 weren't at zero the day following the test. Also, I might  
21 mention, a couple of years ago, and this is more a point of  
22 interest, I had a friend who had a modified Jeep that he  
23 primarily used in the sand and in the mountains, and this  
24 Jeep was modified with an engine that wasn't the original  
25 equipment engine, it was a post-1976 vehicle, so therefore

1       it required smog. Obviously, he couldn't get smogged. I  
2       was asking him how he got his registration renewed and he  
3       said, well, I know a place. And I said well, how did you  
4       find it? He said, I called my mechanic, my mechanic gave me  
5       another phone number. So two phone calls and he found the  
6       place. Well, you know, I happen to have a certain amount of  
7       appreciation for this program and when I get members calling  
8       me asking me about violations and things like that and,  
9       frankly, I don't have a lot of sympathy if it appears  
10      someone willfully took advantage of beating the system one  
11      way or the other. So I made some phone calls. Two phone  
12      calls in Sacramento, okay? And I told a friend about it who  
13      was in the business and he said, I'm not surprised. And he  
14      said, let me see here. He made two, same conclusions. So  
15      it's relatively that easy. Thank you.

16 CHAIR WEISSER: Well, I wish I could say thank you, Randy, but I  
17      can't. That's really depressing. Two degrees of separation  
18      from being a good citizen, taking care of your fellow  
19      citizens and being a crook and a stealth killer. I don't -  
20      okay, that's a little hyperbole, but that's what it's about.  
21      Randy, the third aspect of this issue - you mentioned two  
22      major ones, citing both Roger and what Bud said, I mean,  
23      what Eldon said, but I think the third thing is that we'll  
24      get back to when we get back to Bud, is what Bud raised and  
25      that is the perception and the reality of conflicting

1 conflicts between the regulatory health goals and the public  
2 saving money goals. And we've all learned over the years  
3 never to underestimate the ingenuity of the American  
4 entrepreneur and consumer, and that's what we're dealing  
5 with. We'll go to Dean and then - there's another hand on  
6 the left side, we'll go Len, and then Charlie. Dean?

7 MR. SAITO: Thank you, Chairman Weisser. I thought I'd just  
8 mention, one of the current issues that -

9 CHAIR WEISSER: This is Dean Saito from South Coast Air Quality  
10 Management District.

11 MR. SAITO: Sorry about that. One of the issues we're currently  
12 negotiating with the Air Resources Board on our pilot study  
13 is that ARB is asking us as part of the repairs that we only  
14 allow OBD II compliant catalytic converters and we're  
15 arguing with ARB that we should be afforded - if we do that,  
16 afforded additional reductions because that currently is not  
17 required as part of California Smog Check Program. But I  
18 raise that issue as maybe that's part of the answer is if  
19 CARB really believes that there are aftermarket equipment  
20 that needs to meet a minimum level of efficiency, they can  
21 regulate that. And that's one of our negotiating points  
22 that we're currently dealing with ARB on.

23 CHAIR WEISSER: Very good point, Dean. Thank you. Len?

24 MR. TRIMLETT: Len Trimlett, Smog RFG. I'd just like to get a  
25 clarification on something I heard in the previous



1 discussion. Supposedly remote sensing says these cars are  
2 not lasting on their repairs because remote sensing finds a  
3 car that's out of spec. It finds a car that's out of spec  
4 and then the push is made to go back and look at the actual  
5 test results and say, oh, this car passed then, but it's not  
6 passing now. So the real issue to me I think is, okay, if  
7 the car does not pass remote sensing, you've got to go back  
8 and look at what did the car do at its last inspection? You  
9 need to know what kind of repairs were made on that vehicle  
10 to actually make it pass, okay? I've looked at the record  
11 spec of data retained for the smog check system in the BAR  
12 97 about five years ago, the internal record structure. I  
13 believe that there is some data in there that gives them the  
14 ability to determine this is what was done to repair that  
15 vehicle. I would like hear - am I correct in my  
16 understanding that, yeah, you can go back and figure out  
17 what was done or is that data in each record billed?

18 CHAIR WEISSER: Thank you. Stay seated for a while. Alan,  
19 could you come up? And while he's walking up, Len, I want  
20 to emphasize that as I understand it, this test did not  
21 employ remote sensing. This study employed regular roadside  
22 testing using ASM equipment.

23 MR. TRIMLETT: Right.

24 CHAIR WEISSER: Now the advocates for remote sensing say, gee,  
25 one of the things remote sensing can do is actually get on-

1 road high-emitters. I could visualize a program where if  
2 someone fails remote sensing two or three times they are  
3 directed to get a regular retest in between cycles, that  
4 sort thing. Anyhow, Alan, what's the answer to his  
5 question?

6 MR. COPPAGE: Well, it's an important distinction - Alan  
7 Copping, Bureau of Automotive Repair. It's an important  
8 distinction to make between roadside sensing and the  
9 roadside pullover program, just so we make that clear. The  
10 records in the EIS Unit, by all means, there's an  
11 opportunity to a technician to record into the machine what  
12 they did to repair the vehicle. Phil and I were speaking  
13 about this before the Committee meeting began today and came  
14 across a few things that he might want to look at. The  
15 challenge there is to get the information into the EIS unit.

16 CHAIR WEISSER: So it's an opportunity to get the information  
17 in, not a requirement.

18 MR. COPPAGE: It is a requirement when the machine asks the  
19 technician and there are some technical issues. At the end  
20 of a smog check, when a vehicle is to be certified, the EIS  
21 machine will ask you were repairs performed on this vehicle.  
22 The technician answers yes, it takes him through a query  
23 where they say who did it, what they did, how much labor,  
24 how much parts, so on and so forth. If they answer the  
25 question no, poof, it's gone. The issue - and Roger can

1 understand this, is when a vehicle goes from a test-only as  
2 a failure to out to the world to get fixed, back to a test-  
3 only, when that vehicle is certified at test-only, the test-  
4 only technician did not do the repairs. They answered the  
5 question no. Unless the station in the middle, all the  
6 moons align, and the customer went to a licensed station,  
7 they had a licensed tech do it, when the tech does the Q-  
8 test, the pre-inspection test that we ask them to do before  
9 going back to test-only, they have to enter that information  
10 into the EIS unit before it leaves. That's the only way to  
11 capture that. So there's a lot of hoops they have to jump  
12 through to get that done. And we know how many cars go to  
13 test-only and go back to test-only, so there's the quandary  
14 that we're in.

15 CHAIR WEISSER: So it is an alignment of moons.

16 MR. TRIMLETT: Just one quick comment. All I'm saying is that  
17 to capture what these failure modes are, if the technician  
18 reports what the failure mode was as he did that test, then  
19 you can go back and look at the data, whether you're talking  
20 - when you're talking about the lifetime of the repairs.

21 CHAIR WEISSER: Right, I think we all get that. I think the  
22 point you're raising is a good point.

23 MR. TRIMLETT: If it's in that record structure, it's  
24 accessible.

25 CHAIR WEISSER: Right. Alan, did you have something you wanted

1 to add?

2 MR. COPPPAGE: Yes. The Sierra Research analysis does look at  
3 failure gas by vent. If the car failed for NOx and then  
4 goes through the roadside program, has a pullover and it  
5 fails for NOx again, that is a vehicle that would be in his  
6 40 percent. If it's for a different gas or a functional or  
7 a visual, then it is excluded.

8 MALE: Now, that's not entirely correct. We looked at just  
9 tailpipe failures and failing at the station versus failing  
10 at the road. One of the questions that came up in one of  
11 the meetings that we had this past spring is, what is the  
12 incidence of sort of similar failure modes and that's - and  
13 roughly 75 percent of the vehicles that were failing on the  
14 roadside were failing for the same failure mode, gas in  
15 mode. So it was a large chunk of those failures that were  
16 seen on the roadside of the ones that initial test failures  
17 at the smog stations were failing for the same gas in mode.

18 CHAIR WEISSER: That's very interesting in and of itself.

19 MR. TRIMLETT: Common patterns.

20 CHAIR WEISSER: We'll go Roger and then John.

21 MEMBER NICKEY: Alan's point, just to expand on that, we get a  
22 lot of these that are either idle-speed failures, ignition  
23 timing failures, piece of vacuum line, some small thing,  
24 they leave my place, they go get it repaired either the same  
25 day or the next day, come back, retest, pass for the visual

1 or the functional, whatever it was. And I've called several  
2 shops around Folsom and asked and most times if the customer  
3 comes in for a simple vacuum line or a timing check, it's  
4 just zoom, zoom, and the guys out and it never gets entered.  
5 So that would be a failure that was repaired, that we'll  
6 never know what was done.

7 CHAIR WEISSER: Yes, it's an alignment of the moons. I think  
8 Alan captured that correctly. It's not going to be a  
9 reliable data source. It still may be instructive. John?

10 MEMBER HISSERICH: I just wanted to follow-up on the point that  
11 Randy made and I think Bud was talking about. Bud  
12 represents that component of the industry that's out there  
13 trying to do a good job. Randy does, his people in his  
14 organization, I'm sure, do. But there is, if we make two  
15 calls, a component of the industry that probably isn't doing  
16 quite what we'd like them to do. I had occasion to  
17 participate in essentially an enforcement action against a  
18 pair of shops that were in collusion that were clean-piping.  
19 And in talking to the investigators who were the colleagues  
20 of Bruce, they said there's a fair amount of this that goes  
21 on out there. It is difficult and lengthy to build the  
22 cases so that they said it just goes un-enforced. I think  
23 that the information that Emily and Jeff brought forward  
24 about the confusion about who has the license and where  
25 they're located in the sum apparent, rollover in - and who

1 are the licensed folks means that there's a fairly sizable,  
2 I don't know exactly how many obviously, sub-rosa component  
3 of this industry and I think from BAR's point of view,  
4 enforcement is clearly an issue. This kind of highlights it  
5 here, the fact that somebody's not doing what they're  
6 supposed to do. I've heard apocryphal stories, I'm sure we  
7 all have, about how people put a part on, run the test, take  
8 the part off, things like that. So I think in some  
9 respects, it calls upon BAR and the industry  
10 representatives, each of the two components of it, to really  
11 figure out how we're going to deal with this fairly sizable  
12 sub-rosa, make two calls and get your car passed type issue.

13 CHAIR WEISSER: I think Bruce has something right on point.

14 MR. HOTCHKISS: And John, one of the things that's most  
15 disturbing to me when I was doing enforcement is that yes,  
16 you have the shops that are crooked, who are willing doing  
17 illegal acts, but that so many of the other shops know about  
18 it and do nothing. So you have the shops that are guilty of  
19 doing it and then you have the shops that are guilty of  
20 ignoring it. If it's easy enough to do it on two calls, I  
21 would venture to say that a large number of the smog  
22 stations out there know who the shops are that are doing the  
23 illegal smogs. And I know that in my time in doing  
24 enforcement, and I worked in two large Bay Area counties, I  
25 could count on one hand without using my thumb, the number

1 of shops that would rat out somebody else.

2 CHAIR WEISSER: Why is that? It would seem to me that they'd be  
3 more than eager.

4 MS. LAMARE: There's no girls in the club.

5 CHAIR WEISSER: There's no girls in the club. A feminist  
6 perspective. That's interesting. Okay, Jude, we'll - Alan,  
7 I'm sorry. Alan had something he wanted to say directly on  
8 point.

9 MR. COPPAGE: Yes, I just wanted to bring to light that Mr.  
10 Hisserich did mention. Taking a component, putting a  
11 component on a vehicle, getting a smog and then taking it  
12 off. I'm not sure he meant it in the way that I took it.  
13 I'm assuming you were talking about a station's perspective  
14 doing that; put a part on, get a car smogged, take it off.

15 MR. HISSERICH: Yes, I know of situations in which that's  
16 occurred. I've heard of it.

17 MR. COPPAGE: Right. Yes, I will add for some enlightenment for  
18 all of us, one of my other hats that I wear at BAR, I'm the  
19 Dragnet coordinator. The Dragnet Program many of you may  
20 have heard about, is the street-racing abatement program  
21 that is funded through grants through OTS. Dealing  
22 particularly with street racers. And that is an epidemic in  
23 that subculture. You mentioned that. The law enforcement  
24 that take care of, chase after, track down, and arrest  
25 street racers impound their vehicles. And being involved

1 with that underworld, if you will, you would be  
2 flabbergasted at the number of vehicles that not only have  
3 parts put on them prior to the smog check, they have  
4 complete drive train transplants before a smog check. And  
5 before you can blink the next day, that legal engine is out  
6 and a very illegal engine is put back into that vehicle to  
7 go street race on the streets of California. That is a  
8 gigantic issue and OTS has, not only with the emissions side  
9 but from the mortality side, these people are killing  
10 themselves in record numbers.

11 MR. HISSERICH: And they're very hard to catch to get to do a  
12 roadside test, too.

13 MR. COPPAGE: They're very hard to catch. And we're closing the  
14 trap on these people because once they're cited, they're not  
15 cited and fined for a fix-it ticket anymore. They have got  
16 to go to the referee, which I shared at the BAG meeting a  
17 few months ago. Back to the situation, I'll just pull my  
18 racing engine out, put my legal 1.8 smog legal engine in it,  
19 go to the referee, get my cert, go to court, pay my fine, be  
20 done. And within a few hours, we're right back to where we  
21 were. And that goes to what I said earlier. We're teaching  
22 people how to pass smog checks, not how to drive clean cars.  
23 That car may have been caught up in his roadside because the  
24 person that drove it thought, I'm good for two years.

25 CHAIR WEISSER: Another great argument for why we need on-road



1 testing. Jeff?

2 MEMBER WILLIAMS: I'm pondering these data, which are  
3 fascinating, and I think there's one positive thing to  
4 remark on in the general gloom that the intercepts are not  
5 zero is that a car that failed a smog test is much more  
6 likely to fail the roadside. That means the test was  
7 probably accurate for many cars, and that's about the  
8 repairs, then. So there is some -

9 Male: Right, and one of the things I did, too, because I was  
10 sort of interested to see, gee, am I screwing anything up  
11 here. That's always my biggest concern. So what I did was  
12 I looked at the cut-points and then 1.1 times the cut-points  
13 and then 1.2 times the cut-points. Because I didn't want a  
14 situation where I come up here and someone says well, wait a  
15 minute, those are just barely failing or whatever. And  
16 yeah, at each of those cut-point levels, the failure rates  
17 go down a little bit, but the basic trend is the same. So  
18 that's one kind of cross-check I did to sort of address  
19 that.

20 CHAIR WEISSER: Jude? We'll get back to you, Bud.

21 MEMBER LAMARE: Thank you. I apologize to the Committee for  
22 what appears to be very sexist comments and also for talking  
23 off microphone. But I do think there's some gender  
24 differences and girls don't know as much about cars. That's  
25 why I'm here, to represent that half of the population.

1 Also drives, also breathes, and is not well-represented on  
2 this Committee making me a little bit testy.

3 CHAIR WEISSER: Is that testy-only?

4 MEMBER LAMARE: Testy-only. I didn't realize when I - you know,  
5 I wasn't thinking. This is only about tailpipes, so that's  
6 important, that's good, but what are you looking at in terms  
7 of visual and tampered?

8 MALE: Let me get this one. That's another component of the  
9 analysis we haven't done yet. I focused on tailpipe  
10 initially because one of the things that happens at the  
11 roadside inspection, sometimes they're sort of rushed to get  
12 vehicles through and so there tends to be a larger incidence  
13 of incomplete tests when you look at the visual functional  
14 test as well. So for this first cut, I just focused on the  
15 tailpipe.

16 CHAIR WEISSER: Other questions from the public? Mr. Peters?

17 MR. PETERS: Mr. Chairman, my name is Charlie Peters, Clean Air  
18 Performance Professionals. I'm wondering if I could get an  
19 extension here for about one hour for discussion of the  
20 specific issues at hand?

21 CHAIR WEISSER: No, I'm sorry, that won't be possible, Mr.  
22 Peters.

23 MR. PETERS: Okay. There is a subject here that's come up as to  
24 how you get a certificate on a car that shouldn't, that the  
25 good doctor from Los Angeles, Dr. John, mentioned that he

1 had run across this situation. It has been discussed that  
2 two phone calls will get you a cert on any car that you  
3 like, a couple of minutes. Mr. Hotchkiss says, gee, I don't  
4 know how we could find any of those people. But I think  
5 Bruce probably knows just as well how to find them as a  
6 whole lot of other people. I think if you go out and were  
7 to attend 500 smog check stations in the state of California  
8 with this car that's inappropriate and went in and asked to  
9 get a certificate on that car, you'd probably get 498  
10 rejections, and you wouldn't get a certificate. On the nice  
11 Member, being female, indicating that things may happen  
12 different with females, I think that's probably absolutely  
13 correct, and I think the Smog Check Program probably takes  
14 advantage of females at a rate probably ten times what it  
15 does males. And that's been proven in statewide go get a  
16 smog check on a specific car with specific problems all over  
17 the state and get data and that data does exist. So it's a  
18 valid consideration. But if you take those two phone calls,  
19 you're going to find out somebody that's willing to do this.  
20 If you go take a car there, you get it certified and it's  
21 still wrong, now you've got an action. Until somebody  
22 actually goes and finds out, it doesn't matter. And is that  
23 happening everyday all over the state of California?  
24 Absolutely. Sitting here and discussing this and laughing  
25 about it, in my opinion, and not doing something about it,

1 as far as I'm concerned, is criminal. It is criminal to  
2 disregard the air quality, criminal to disregard the  
3 criminal activities taking place within this program, it is  
4 criminal, in my opinion, not to make some investigative  
5 process here and get down to trying to make some corrections  
6 and you people piss me off.

7 CHAIR WEISSER: Any further public comments? Bud, you had a  
8 supplemental conclusionary comment of some sort?

9 MR. RICE: Yes, thank you, Chair.

10 CHAIR WEISSER: Thank you, Bud. Put Bud on another three.

11 MR. RICE: In conclusion, I just wanted to say that truly  
12 nothing happens until somebody fixes a car. The testing is  
13 great, remote sensing, we're arguing a little bit about  
14 that, okay fine. Roadside test - but nothing happens until  
15 somebody fixes a car. And the point I was trying to make  
16 earlier is that the guidance that we're getting on the  
17 repair side is a little bit murky in terms of what we can  
18 do, what can't we do, how far can we go, when is it over the  
19 line, that type of thing, and I would encourage the BAR to  
20 spend some time thinking about what guidelines they can  
21 give. Just to show you how fast somebody can get into the -  
22 what I'll call the trick box is if - can I pick on you,  
23 Alan, a little bit? If Alan came up and got a batch of my  
24 customers and I had been doing what you guys want me to do  
25 by saying here's what it would cost to pass, but boy it

1 would be great if you could do a little bit more, I think it  
2 would be good for the air, and we can make some better  
3 repairs for you. And a batch of my customers did that and  
4 then if Alan came and sat down next to them and said, let me  
5 ask you guys a question; if you guys knew that you could  
6 have got that smog certificate without spending that extra  
7 money, what would you think - and I go to jail. So we need  
8 some guidance, we need some guidelines in order to make this  
9 thing work from the repair side. Thank you.

10 CHAIR WEISSER: That's the tricky question, Bud. Or a tricky  
11 question. Jude?

12 MEMBER LAMARE: A question for James, if he's available. In the  
13 2003 SIP, there was something called parts replacement.  
14 There's also been reference to a potential regulation to  
15 require OBD II catalysts and for any catalyst replacement in  
16 the Smog Check Program and that seems to be part of what  
17 we're talking about here as more regulatory guidance about  
18 what parts are legal to be used in the Smog Check Program.  
19 Can you tell us anything about how that's moving along or  
20 not moving along? It seems like it's been three years since  
21 ARB and - I think it's in the South Coast SIP as well, laid  
22 out this idea that we were going to require more durable  
23 parts in the Smog Check Program. Where is it?

24 MR. GOLDSTENE: James Goldstene, ARB. I'm aware of the issue,  
25 but I will have to get back to you to find out where we are

1 on that.

2 CHAIR WEISSER: Is there anyone from South Coast that might be  
3 able to illuminate us? Ah, there is, Dean?

4 MR. SAITO: Dean Saito with South Coast AQMD. Yes, we have been  
5 informed by CARB that their analysis indicates that O2  
6 sensors was not cost-effective to establish a minimum  
7 criteria and therefore it seems like they're focusing on the  
8 catalytic converters and that's why they're imposing that  
9 requirement on our pilot study.

10 CHAIR WEISSER: Okay. I think Jude's question was broader.  
11 Jude?

12 MEMBER LAMARE: Well, if they're talking about imposing on your  
13 pilot study, but what are the plans for bringing it forward  
14 for a reg within the BAR program?

15 MR. SAITO: I don't know the answer to that.

16 MEMBER LAMARE: You haven't heard anything on that?

17 CHAIR WEISSER: Well, we'd be interested in hearing about that  
18 at some future date. Okay. Lots of people have their  
19 microphones up. I did not keep order, but I think it will  
20 go Jeffrey, and then Bruce - Roger was up first. Okay.  
21 Roger, Jeffrey, Bruce, and Eldon.

22 MEMBER NICKEY: Just very short. I've had this discussion with  
23 ARB before about the approved catalysts and the discussion I  
24 had was how do you tell an approved catalyst from an  
25 unapproved catalyst? They both look the same on the

1 outside. So the deal was is that if they're going to have  
2 approved ones, they should have a plate or some identifying  
3 mark on them so that when you're looking under the car, you  
4 can tell.

5 CHAIR WEISSER: Thank you. Jeffrey?

6 MEMBER WILLIAMS: I'm still thinking about the data analysis and  
7 I bet you've done this in contemplation, if not in fact, but  
8 if you've done it in fact, I think we'd all be interested.  
9 Presumably, the test history includes whether it was test-  
10 only, Gold Shield, and so forth, and imagine plots where the  
11 test-only went through zero and the test-and-repair didn't.  
12 We have a very different interpretation then if both have  
13 about the same intercept.

14 MALE: Exactly. There is the test - obviously the station I.D.  
15 on the test history from which you can extract test-only  
16 versus test-and-repair. That's on my to-do list. But the  
17 concern about once you start slicing the data, you start  
18 getting thin in some areas, but that's a worthwhile exercise  
19 that again is on my to-do list.

20 CHAIR WEISSER: Bruce?

21 MEMBER HOTCHKISS: I have kind of a question and a comment for  
22 Bud, so you may want to come back up, Bud. But I'm just  
23 wondering, using your example of the sparkplug wire, the  
24 single wire that was bad, in your experience, how many of  
25 your customers have said, okay, go for all eight versus how

1 many have said, no, just do the cheapest? It is a sales  
2 job, obviously. I mean, you are trying to sell a better  
3 repair.

4 MR. RICE: Well, actually, I'm trying to remember the year now.

5 I think it was 1984, we got sued by the State of California  
6 for that exact issue. And we were selling the eight, with  
7 the customers approval to sell the eight, and the State said  
8 we were selling unnecessary parts. Okay, we got sued.

9 MEMBER HOTCHKISS: And my comment would be that I think - and

10 maybe I'm being too optimistic, but I see a change in BAR  
11 and the program that Alan was describing in the Central  
12 Valley where they are looking at trying to get repairs done  
13 beyond just the pass. So, hopefully, there's a change in  
14 the wind.

15 CHAIR WEISSER: Alan, do you want to respond? You don't need to

16 if you don't want to. That's not a warning. Nothing you  
17 say will be used against you. I'm sorry, I just - you look  
18 like you had something you wanted to say, that's all.

19 MR. COPPAGE: Alan Coppage. And I respect Bud for his comments.

20 I will wear the black eye from previous years because we do.  
21 I have no doubt that what you experienced was a foundational  
22 building block on how you view it today, no doubt. The one  
23 thing I can go back to is the laws and regs. In the Health  
24 and Safety Code, the California Business and Professions  
25 Code, as well, particularly in clean car, we look at



1 industry standards. The laws say vehicles shall be repaired  
2 according to the manufacturers' recommended guidelines or  
3 industry-established standards. That is something that we  
4 firmly stand on. And when it comes to replacing that one  
5 wire or those eight wires, I was a mechanic for many years  
6 at a high-line German dealership here in Sacramento and I  
7 made a good living doing it and I think I was pretty good at  
8 it. I don't remember many boxes of ignition wires that came  
9 with less than a full set. That's pretty much an industry  
10 standard as far as I bring to the table. So when it comes  
11 to replacing one wire or seven more or three more, however  
12 many cylinders the vehicle has, what happened then happened  
13 then. But what happens now is, according to the regulation,  
14 it says if a vehicle has bad sparkplug wire, and you can  
15 justify replacing that sparkplug wire, you don't have a  
16 problem with BAR.

17 CHAIR WEISSER: Okay. I think that what we are focusing on is a  
18 wrong committed two decades ago or alleged wrong committed  
19 two decades ago and I think it underlies the - one of the  
20 most difficult questions associated with lower post-repair  
21 cut-points than pass cut-points and one that would be a  
22 challenge, will be a challenge to BAR and to the public and  
23 this Committee to figure out how they're going to - if they  
24 should and how they can possibly deal with it. It will not  
25 be easy. We're going to go Eldon now. No? Okay, you're

1 clean. Who else has something on the Committee they want to  
2 say? Jude, you had your - no? Okay. Are there any further  
3 comments from the public? Mr. Peters?

4 MR. PETERS: Yes, Mr. Chairman, my name is Charlie Peters, Clean  
5 Air Performance Professionals. I'm here representing  
6 motorists. The issue of what we're discussing is obviously  
7 - and it's been brought out appropriately so, is been  
8 talking about a tailpipe-only part of the process. And  
9 whether or not something is fixed or not, whether what's  
10 broken is repaired or not, is not necessarily determined by  
11 a tailpipe test and it sounds like that's starting to be  
12 recognized, which is pretty cool. But the real question is  
13 - and I've asked the question previously, so I'd like to ask  
14 it again, if what is wrong with the car is repaired, does  
15 the car pass every time? So I may ask that question to the  
16 gentleman who is doing the evaluation. If, in his analysis,  
17 what is his consideration that if the fault on the car is  
18 repaired, will it pass every time? He's finding a  
19 significant amount of the times that the car is not passing  
20 and asking that question to the Air Resources Board in a  
21 time that you, Mr. Chairman, weren't here, which is a  
22 documentation of this meeting, the Air Resources Board  
23 individual who was in charge of modeling for the State of  
24 California at the time, indicated that if in fact the car  
25 was repaired, it passed every time. And I think that's an

1 important issue here in consideration of what is appropriate  
2 for us to do. Thank you, Mr. Chairman.

3 CHAIR WEISSER: Thank you, Mr. Peters. Are there any further  
4 questions? Yes, Len? And this will conclude the public  
5 testimony portion on this item.

6 MR. TRIMLETT: Thank you. Len Trimlett, Smog RFG. I just want  
7 to say that I agree totally with Alan's comments on the  
8 street racing. It is a problem. All you've got to do is go  
9 visit Oakland. I can look different places in Oakland and I  
10 can see the street tire tracks where they've been racing.  
11 You hear all about it on the radio. The Chief of Police of  
12 Oakland brings his troops out in force. All you've got to  
13 do - Alan was saying, yeah, that vehicle may pass smog check  
14 today, but that engine is out 24-hours later. Just look at  
15 the news rack. Modified Magazine. There's a whole industry  
16 devoted to street racing modifieds. Go get them, Alan, go  
17 get them. Thank you.

18 CHAIR WEISSER: Thank you, Len. If it would help, this  
19 Committee would be pleased to pass a resolution opposed to  
20 illegal street racing. But that's not - I say that, but  
21 that's not where - you don't get enforcement that way. I'm  
22 challenged by this. I find it hard to understand why, if  
23 criminal activity can be uncovered with two phone calls -  
24 okay, let's give the benefit of the doubt, three phone  
25 calls, why is it so hard to set these guys up? And if it's

1 money, what can this Committee do to assist you in getting  
2 the resources that you need to buff up the enforcement  
3 program? This Committee has gone on record in our report  
4 wanting the return of Consumer Affairs money - pardon me,  
5 the Consumer Assistance money to the Department so that it  
6 can go out for consumer assistance to lower income people,  
7 and I can guarantee that this Committee would be very  
8 supportive of increasing resources that would go toward  
9 pursuing the bad guys. It's just a terrible message to the  
10 public that two or three phone calls and you can get around  
11 the program. This morning does not - I was joyful when  
12 Sherry was here. I'm not joyful now. We've got some  
13 dramatic challenges ahead of us. This has been really  
14 interesting and it shows us the import of data in terms of  
15 its role for us in both the light for us to see in the murk  
16 what's important and also as a navigational beacon in terms  
17 of telling us where we ought to be focusing our efforts. So  
18 thank you for the work so far and we're looking forward to  
19 the work in the future. Thank you. I have exactly 12:00 on  
20 my watch and I think that's probably a good time for us to  
21 take a lunch break, because I'm assuming that your  
22 discussion of potential topics for next year, and then our  
23 discussion of the report would go for longer than let's say  
24 an hour. Is that your assessment, Rocky? It is? Okay,  
25 we'll take a break. How much time do you want to do a

1 break? Do we need a full hour or should we try to cut it to  
2 - what do you think? Forty-minutes, okay. So if people  
3 could be back here at 12:45 and drive carefully if you're  
4 leaving the site. Thank you. We'll recess.

5 - RECESS -

6 **Tape 3 of 4 - Side A**

7 CHAIR WEISSER: Okay. If I could ask folks to take a seat,  
8 we're going to reconvene the meeting. Thank you. Okay, the  
9 meeting has started. Rocky, why don't you introduce the  
10 next subject, which is the IMRC research topics. You've put  
11 forward a draft list of items and included that in our  
12 agenda, but we heard a lot of things this morning that lead  
13 me to believe that that list of potential items might be  
14 expanded. Tell us what your intentions are here and get us  
15 started.

16 MR. CARLISLE: Okay, my intentions on this piece entitled  
17 Potential Smog Program Evaluation Topics and Subcommittees  
18 was just to start a discussion on where we want to go after  
19 the submission of this current report. The first two items,  
20 for example, are SIP issues, diesel vehicle testing and  
21 motorcycle testing. Those are included in the current SIP.  
22 We still have work to do on the International Registration  
23 Plan. By the end of this month, we'll have a data set by  
24 the DMV, including the 1.7 million vehicles registered on  
25 the IRP. Another topic was OBD-only testing. That's been

1 discussed, but we're still waiting for a report from ARB  
2 that they're actually doing on that to determine what the  
3 losses may be if we went to OBD-only with no tailpipe on  
4 1996 and newer vehicles. We're bound by AB1870, the Smoke  
5 Bill. We have to do an evaluation of the smoke testing, but  
6 that's off in the future a bit because that doesn't start  
7 until 2008. The next three items are the incentives that  
8 we've discussed in our other meetings, incentives to better  
9 align the goal of motorists with the goal of the program.  
10 Same thing for the shop owners and the same thing for the  
11 technicians. And I talked about those a little bit during  
12 the update. We also have talked in the past about a  
13 standardized methodology for program evaluation and I think  
14 that's something that needs to be moved forward as well  
15 because there's been a lot of discussion about it, but we've  
16 never really concluded anything on that issue. And I think  
17 that's part of what Sierra Research is doing now, is coming  
18 up with a standard approach. We're continuing to compare  
19 the effectiveness of test-and-repair, test-only, and Gold  
20 Shield Stations. We have more data to finalize that,  
21 roadside being one of them. Another issue is the evolution  
22 of the Smog Check Program, what it should look like in 2010.  
23 We've talked a little bit about that in the past, but I  
24 think that should be fairly high on the priority list  
25 because if we go back to item number one, for example,

1 diesel testing, that might be an opportunity to incorporate  
2 diesel testing, OBD II, and maintain at least enough  
3 through-put through the stations so that everybody doesn't  
4 experience a big loss in a revenue if you will. For  
5 example, the reason I mention that, if we go to OBD-only  
6 testing, it's just an assumption that the price of the smog  
7 check will decrease pretty significantly, only because your  
8 test time is significantly reduced, the cost of your  
9 equipment is significantly reduced. So if you incorporated  
10 diesels, one of the thoughts was you could incorporate  
11 diesel testing using OBD II, as well, with 1998 and newer.

12 CHAIR WEISSER: So when you say OBD II only, you don't mean just  
13 OBD II only. You mean OBD II, plus a visual, plus -

14 MR. CARLISLE: No, OBD II only, like the other 28 states do.

15 And that's the report that ARB is working on now. And then  
16 finally, on the program avoidance, we did mentioned we'd do  
17 a follow-up on that on some other issues with regard to  
18 program avoidance. One being the International Registration  
19 Plan to see if there is an issue, so that was just put in  
20 kind of footnote, but as you state, there's issues that came  
21 up today with regard to remote sensing that certainly would  
22 warrant some attention as well.

23 CHAIR WEISSER: Okay. Are there any questions of clarity from  
24 the Committee Members to Rocky before I go around and start  
25 asking for other ideas? Jude?

1 MEMBER LAMARE: I'm a little confused about OBD-II-only testing.

2 I'd just like to review the fact that the ARB just changed  
3 their OBD II requirements for diesels because the diesel  
4 manufacturers were not able to meet the same tolerances that  
5 gasoline manufacturers meet in their OBD monitoring of  
6 onboard performance equipment and the result was that the  
7 diesel vehicle monitoring doesn't have the finer tolerances  
8 that gasoline does. And one of the objections by the  
9 environmental community or responses to that was, well, we  
10 need to have light-duty diesels going through smog check so  
11 that they have an independent test, meaning they need to go  
12 through tailpipe. And so I don't think - and I don't if you  
13 were aware of this, Rocky, that the Air Board recommended  
14 diesel smog check because of lack of certainty that the  
15 emission control equipment on diesel vehicles would perform  
16 as well as gasoline in recognition that gasoline emission  
17 control equipment has been out there and had on-road  
18 performance was monitored and met a certain performance  
19 standard that justified the exemptions from tailpipe. So I  
20 guess I wouldn't want to merge those two.

21 MR. CARLISLE: No, I don't think you would. I'm just throwing  
22 that out as an option.

23 MEMBER LAMARE: And what about OBD III? That was mentioned in  
24 the South Coast AQMD list of preferred measures that they  
25 want to see ARB and the Bureau do on smog check and that



1 involves some kind of on-road monitoring of OBD performance  
2 so that if a mil light goes on, then the vehicle -

3 CHAIR WEISSER: Explodes.

4 MR. CARLISLE: The concept is bi-directional communications  
5 between the PCM and some unknown computer at this time.

6 MEMBER LAMARE: Which would issue a letter to the owner to go  
7 in.

8 MR. CARLISLE: Correct.

9 CHAIR WEISSER: I've asked Dean Saito to - during the comment  
10 public comment period, describe some of the differences  
11 between the South Coast proposed SIP and the ARB SIP, which  
12 I think are very instructive for this Committee, and of  
13 course BAR and ARB, because of their level of emphasis on  
14 mobile sources which they don't control frankly. And I  
15 don't see - is Dean around? He was, he's having a good  
16 lunch. Okay.

17 MEMBER LAMARE: Okay, on number nine -

18 CHAIR WEISSER: So remote sensing, OBD III -

19 MEMBER LAMARE: On number nine, standardized methodology for  
20 program evaluation. I've spent a lot of time thinking about  
21 this. I think the recommendations that we actually made  
22 were to continue roadside inspection, to set up an ongoing  
23 program, not to start it up and let it lapse -

24 MR. CARLISLE: Right.

25 MEMBER LAMARE: - but to continuously do on-road monitoring and

1 to suspend Fast Pass at some point to allow data to be  
2 collected that would enhance evaluation. And I'm done with  
3 it, as far as I'm concerned, because I think that first of  
4 all I did serve on this Committee and spent a lot of time on  
5 it and didn't find anybody else willing to work with me.  
6 And secondly, we're in the mode where Sierra Research is  
7 going to be reporting to us and I think we should not assume  
8 we're going to have a committee or an item on this.

9 MR. CARLISLE: Okay.

10 MEMBER LAMARE: And in terms of effectiveness of test-and-  
11 repair, test-only, and Gold Shield stations, what I'm really  
12 interested in is how do we do performance measurement in the  
13 Smog Check Program. And that's -

14 CHAIR WEISSER: Could you define what you mean by performance  
15 measurement?

16 MEMBER LAMARE: In the past, we have always said we don't like  
17 the way performance has measured in the past, which is just  
18 failure rates, corrected by or adjusted by model year. We  
19 don't think that's - that's a pretty rough measure of  
20 performance. And beyond that no one seems to be putting  
21 forward any ideas about how you measure performance, yet  
22 today we heard a lot about roadside inspection is showing a  
23 variation in how cars actually perform after they get out of  
24 smog check and that surely we ought to be able to do a  
25 better job of performance evaluation. Certainly citations

1 and that kind of enforcement action is another measure if we  
2 have an enforcement program. So I'll shut up for a little  
3 while. Thank you.

4 CHAIR WEISSER: Thank you. We'll move west to east. Roger?

5 MEMBER NICKEY: Just my comment on performance evaluation. The  
6 only way to really measure performance is in emission  
7 reduction. Now, I don't know how you're going to do that  
8 per vehicle per station, but that would seem to me the only  
9 valid way of assessing performance as actual reductions in  
10 emissions. Back up to OBD-II-only testing, I suppose  
11 everybody here knows my position on that, but I move to  
12 comment on the cost reduction that Rocky mentioned. You  
13 know, 80 percent of what it takes to do a smog check has  
14 happened before you ever plug the OBD II connector in. I  
15 don't foresee any reduction, if at all, in the smog check  
16 fee. By the time you get the thing written up, get the car  
17 in, get everything in place and get it ready to go, maintain  
18 the machine, buy the calibration gases, pay your \$300 a  
19 month service charge on the machine, plus retire the  
20 mortgage on it, how you could reduce the price of the  
21 inspections. And again, OBD II only completely takes out  
22 visual and functional, which are half of all the failures  
23 now. OBD II does not pick up disconnected, missing, and  
24 modified. In most cases, it won't pick up things like  
25 timing changes. And I have never yet seen an evaluation of

1 tailpipe failures that do not illuminate the mil or set a  
2 code. There's a significant number of these, we see them  
3 all the time, and I would really like to get that  
4 information some day.

5 MR. CARLISLE: That's what I'm trying to get from ARB is that  
6 OBD report. They're in the process of finalizing that and  
7 that will include some of that information. But the flip  
8 side of this is that we have to look down the road at some  
9 point, in my humble opinion, because that BAR 97 is not  
10 going to last forever. It is now going on ten years old and  
11 by technological standards, that PC itself is obsolete. So  
12 the question is, how much longer can we continue to support  
13 that piece of equipment? Secondly, the bench itself, you  
14 have vehicles out there that are very clean and if by their  
15 standards they were dirty vehicles, that machine doesn't  
16 have the resolution to really determine whether that's a  
17 dirty vehicle. Because that machine was spec'd out in 95  
18 and 96, so the specification itself is over ten years old.  
19 Now there's been some upgrades to it, but you can only patch  
20 an old car for so long and pretty soon, it's going to out  
21 live the technology that's out there. OBD II was designed  
22 by EPA and by the engineers as an emission system. The  
23 purpose of that was to go to OBD-only testing. And so  
24 that's why I put it down here.

25 CHAIR WEISSER: And I think it's good that he put it down here.

1 I think that what we're trying to do now is throw ideas up  
2 on the wall, make sure we understand the idea, and once we  
3 get our list and the suggestions that we hear from the  
4 public, then go through and do an evaluation of which ones  
5 look like they are the most promising for us to investigate  
6 and get into more depth of the pros and cons of getting in.  
7 I don't think we're today attempting to do, is this a good  
8 idea or not kind of session. I don't think we're anywhere  
9 near that point. Today is list-generation time and making  
10 sure we understand what the scope of the look-see that you  
11 folks would want to do next year would be. But that's what  
12 I would limit our discussion today to. So we'll go to  
13 Jeffrey. Excuse me, Roger, I didn't ask you, are you  
14 through? Do you have any ideas or suggestions for things  
15 that you'd like to add to this list for our consideration?

16 MEMBER NICKEY: Not at this point.

17 CHAIR WEISSER: Thank you.

18 MEMBER NICKEY: But I'm with you on the, we need to stick to the  
19 wide picture, not the narrow one, right now.

20 MEMBER WILLIAMS: I'd like to add evaluation of the HEP to our  
21 list.

22 CHAIR WEISSER: I think that's self-explanatory, but if people  
23 have questions needing clarity, we will raise them. John?

24 MEMBER HISSERICH: Following up on what Jude was saying about  
25 number ten, I'm becoming somewhat less interested in the

1 nuance difference between each of these three market  
2 segments and more concerned about the bad performers and the  
3 good performers because I would think that at the top level,  
4 the best of the test-and-repair, Gold Shield, and test-only  
5 find and take appropriate action and so on. And the  
6 arguments about convenience, cost, etc, availability, are  
7 important market considerations, but less so to us. But  
8 we've heard from industry representatives and from our own  
9 perception, there's a significant number of people in the  
10 industry that may not be performing to acceptable standards  
11 under almost any circumstances under whichever shop title  
12 they bear. And while I would like to have a better way of  
13 understanding and assessing that, I grant you that  
14 performance is a tricky - or effectiveness is a tricky one,  
15 but there may be some combination of factors that could be  
16 developed that would begin to illustrate for us and for the  
17 industry and for the public and possibly for the legislature  
18 who's just not doing the job because they're motivated by  
19 less than the best concerns or some reason they're not doing  
20 a good job. So I think whether that's supplants ten or  
21 modifies ten or adds another one, I don't know, but -

22 CHAIR WEISSER: Performance measurement sort of issues.

23 MEMBER HISSERICH: Performance measurement from the good  
24 performers and the bad performers, no matter which title  
25 they bear in terms of their -

1 CHAIR WEISSER: The only thing I'd like to say in reaction to  
2 what I've heard is I don't want us falling in the trap of  
3 tarring the industry with a few bad apples with a broad  
4 brush indicating there are significant number of bad actors.

5 MEMBER HISSERICH: Conversely, if I may, the notion that there  
6 is some fairly widespread perception that with a couple of  
7 calls - and this did not just start here. I think we all -  
8 that it's an industry that can be worked around. I think we  
9 should try to reinforce the idea that there are people that  
10 do a good, fair job at a fair price who contribute to our  
11 overall well-being and the public needs to perceive that  
12 that's the milieu in which they ought to perceive what their  
13 obligation is.

14 CHAIR WEISSER: I truly agree with you. I think there are those  
15 in the public that still believe that you can bring a couple  
16 of six-packs in and get your test passed. I believe that's  
17 generally not true. Not generally, but almost universally  
18 not true. I believe that the out and out cheaters are a  
19 teeny fraction of the universe. Now that may be my naivety,  
20 I hope not. If cheating is universal or very widespread,  
21 then the study item that I would suggest you engage in -  
22 notice I say you engage in, is the study item I urged Emily  
23 to take up as her thesis, which is how do you realign the  
24 incentives for the consumer and the health-based goals of  
25 achievement of air quality and there are ways to do that if

1 we, as a society, have the guts to step up to the plate,  
2 which I doubt, but there are ways to do that. You can  
3 structure a system where people pay more for pollution and I  
4 frankly think everything that we do in the absence of that  
5 sort of system is spitting into the wind. That's my speech  
6 for the day. Eldon, anything you'd like to add?

7 MEMBER HEASTON: No, I think you touched on it. The other thing  
8 was in that gap of the 20 percent failure rates, the  
9 durability of our repairs, obviously is an issue.

10 CHAIR WEISSER: Do we have an item on durability of repairs?

11 MEMBER HEASTON: Is it on there?

12 MR. CARLISLE: No, we don't.

13 CHAIR WEISSER: Yes, I'm surprised. We raised that in our -  
14 okay. And the handsome gentleman to my right, Bruce?

15 MR. HOTCHKISS: No.

16 CHAIR WEISSER: None - or no, no Smog Check Program or what?  
17 Okay, nothing to add. Jude?

18 MEMBER LAMARE: Thank you, Mr. Chairman, Judith Lamare. Four-  
19 wheel drive.

20 CHAIR WEISSER: Excellent.

21 MEMBER LAMARE: That's on the South Coast list, I know. I think  
22 they have a proposal that four-wheel drive vehicles be  
23 included - be assigned to referee or community college  
24 testing stations so that not every shop has to acquire the  
25 dynamometer. At least I would like our group to understand



1 the emission consequences of not doing NOx tests on four-  
2 wheel drive vehicles as we proceed forward. With many of  
3 these vehicles now beginning to age substantially, and of  
4 course, the early four-wheel drive vehicles were built to  
5 truck, light-duty truck emission standards, and not to sedan  
6 standards until I think 2000, 2002. So there's a group  
7 there that likely could be really, really dirty and  
8 especially in NOx. And then we have heard, but I don't  
9 really understand much about the adding of two-speed idle to  
10 the regular smog check and what it adds to emission  
11 reduction performance for a smog check, but I think that is  
12 also part of the South Coast recommendation. And when I say  
13 these things, I'm saying them because not to suggest that  
14 these are topics that are going to have to be included in  
15 our report, I really see our work as divided into a couple  
16 of things. One is things we need to know about. We need to  
17 be knowledgeable and we need to be educated about in order  
18 to assess their relevance and things then that we actually  
19 focus on for report topics because we don't think anybody  
20 else is really looking at them and we think they're falling  
21 through the tracks. And then things that are recommended by  
22 the Bureau and ARB that we want to give an independent  
23 oversight to make an independent recommendation on. It  
24 seems like our meetings ought to include all those three  
25 kinds of things to do and the enforcement budget, a consumer

1 survey. Will we be doing a consumer survey, when's the  
2 right time -

3 CHAIR WEISSER: Before you move to that, enforcement budget -  
4 what specifically do you have in mind there?

5 MEMBER LAMARE: What is the enforcement program budget for smog  
6 check and how does that compare to enforcement budgets in  
7 other states and is it proportionally large enough to do the  
8 job. We raised that question two years ago and it was put  
9 off from consideration because the enforcement monitor had  
10 been appointed and we were put in abeyance for a couple or  
11 more years waiting for that study to complete. I think we  
12 should ask Caltrans to explain to us their policy about  
13 prohibiting RSD. We need to have some kind of activity to  
14 listen and evaluate. And also on RSD, we've heard concerns  
15 about privacy and privacy advocates are expected to be  
16 active on that issue. Once if it ever surfaces, we will  
17 need to hear from people who are advocates for privacy about  
18 their concerns are. And finally, I still think it's really  
19 important for us to look at the organizational relationships  
20 with smog check. We recently had an EPA Inspector General's  
21 report published on smog check around the country, which  
22 highlighted for me the fact that EPA does review the Smog  
23 Check Program and we have a liaison who is here today, Carol  
24 Weisner, I'll probably - how do I say that?

25 CHAIR WEISSER: Good try.

1 MEMBER LAMARE: Weisner from Region Nine, so I think we're still  
2 falling behind in terms of grappling with the multi-agencies  
3 involved in smog check and how they work together and meet  
4 in air quality performance. I'd like to see Cal EPA and the  
5 Consumer Affairs agency have a more transparent, more  
6 explicit agreement about how they work together and evaluate  
7 smog check and take action. I know Eldon has some ideas  
8 about how to strengthen that relationship and certainly we  
9 want to include EPA, so something in the realm of  
10 organizational performance rather than the performance of  
11 the guys on the street, what about our performance as part  
12 of government in managing this complex program.

13 CHAIR WEISSER: Anything further?

14 MEMBER LAMARE: That's it.

15 CHAIR WEISSER: So, what are you going to do after February?  
16 Roger?

17 MEMBER NICKEY: Quickly, the issue of the idle test was -  
18 vehicles spend an awful lot of time idling in traffic, and  
19 the ASM test - there's no test for idle and it would be a  
20 very simple thing to do after you run the ASM, the vehicle's  
21 sitting there idling for 30 seconds, you can take a sample.  
22 I can tell you there are many, many vehicles that come that  
23 will barely run that could pass the ASM that would not pass  
24 an idle test. The four-wheel drive issue is interesting  
25 because when we think four-wheel drive dynamometers, there

1 must be some of the out there. I'm going out on a limb, but  
2 I don't think there's one in the state of California outside  
3 of a manufacturer's testing laboratory. They just don't  
4 exist. And if you want to think about vehicles that are  
5 exempt from NOx testing, let's just take one - Mercedes, 92  
6 and newer, all Mercedes, the entire fleet are exempt from  
7 NOx testing because they supposedly have non-disengageable  
8 traction control even if they're two-wheel drive. You'd be  
9 better served to have the manufacturers - require the  
10 manufacturers to provide a disconnect so they could be  
11 tested two-wheel.

12 CHAIR WEISSER: Thank you. Are there any other items? We have  
13 from my rough count gone from a dozen to two dozen plus and  
14 that's good. That's what this is about. Any other  
15 suggestions here at this point? Rocky, you've been  
16 listening, anything you want to add in terms of suggested  
17 items? We're not going to choose, we just want to put  
18 things up on the wall.

19 MR. CARLISLE: No, the only thing I was going to suggest is that  
20 maybe at this meeting we pick a subcommittee of people that  
21 want to work on this list and - two things; prioritize it  
22 and -

23 CHAIR WEISSER: We'll get to that after we hear the public  
24 comments. I have some thoughts as to what would be a  
25 constructive next step.

1 MR. CARLISLE: Okay.

2 CHAIR WEISSER: And then we can make a decision as to how we  
3 want to go forward for your evaluation as to what you will  
4 be doing next year. So I will now ask members of the public  
5 to come forward with their suggestions and I'll start from  
6 the back of the room and ask Mr. Ward to approach the bench.

7 MR. WARD: Excuse me?

8 CHAIR WEISSER: Nothing, we're doing sartorial -

9 MR. WARD: Mr. Chair and Members, good afternoon. Randall Ward,  
10 executive director California Emissions Testing Industries  
11 Association. I was pleased because I didn't hear it until  
12 the last of the conversation among the Committee Members  
13 about the consumer survey and, as I recall, during the  
14 discussion about that survey that Dr. Lamare worked  
15 laboriously on, I was have suspecting she wasn't bringing it  
16 up because she spent so much time and energy on it. But as  
17 I mentioned I think at the last meeting, it does raise more  
18 questions than it provides answers and I think Dr. Lamare  
19 indicated such at the time she presented it and certainly in  
20 the case of the issue of test-only versus test-and-repair,  
21 you have better than 50 percent of the vehicles that could  
22 choose to go to any test facility electing to go to test-  
23 only, which is about less than 20 percent of the universe of  
24 the smog check inspection facilities that exist. So - and  
25 it's not a function of money, it's certainly not a function

1 of geographic location, so what is it a function of? And it  
2 certainly is a question. It's obviously been a success to  
3 the consumer, but we don't quite know why. Also I think  
4 within the context of that same issue, I've heard numerous  
5 times over the last couple or three meetings about raising  
6 consumer consciousness, about their contribution, and how  
7 you can better serve the consumer by bringing to their  
8 attention vehicle maintenance, the issues associated with  
9 smog emissions generally, and I think that would certainly  
10 be appropriate within the context of a consumer survey. And  
11 then last, based on some of the earlier discussion, I think  
12 one of the things that I notice with regard to the IMRC, is  
13 the at you look at some of the larger problems as opposed to  
14 some of the incremental issues, and Dr. Lamare once again  
15 brought up the enforcement budget, and I don't recall a time  
16 when the Bureau has come forward and said we need your help,  
17 IMRC. There's some things we think we could do that would  
18 be in the best interest of the program that would not help  
19 us in five years that would help us in very short order if  
20 we had your support. And within the context of talking  
21 about the few bad actors, I was thinking about a Cal Tip-  
22 type of program like they have at Fish and Game. Now it  
23 brings up a lot of questions, but it's quite possible that  
24 could be done fairly effectively (alarm sound) if the rest  
25 of the industry was in a position to be interested in

1       responding to their competitors that were pulling  
2       shenanigans and also it could be abused.

3 CHAIR WEISSER: Thank you. Randy, if you have more after we go  
4       through the -

5 MR. WARD: No, I'm done. Thank you.

6 CHAIR WEISSER: But if you have some additional suggestions for  
7       issues, please take another shot when we finish the first  
8       round. Okay, Bud?

9 MR. RICE: Bud Rice, a couple of quick things. When I look at  
10      the IMRC, it doesn't mean that it's a game, but it's kind of  
11      like a chess board where you guys have the ability identify  
12      the chess pieces that are in play, how to use them, what do  
13      they do, that kind of thing, and I heard Ms. Lamare talk a  
14      minute ago about the funding for the enforcement budget.  
15      I'd like to see you guys take a little bit more active role  
16      in the budgets in general and take a look and see who can  
17      you fight for, what makes sense, when you're making  
18      recommendations, how is it going to be funded, where can we  
19      get that money from and then watch the money as it moves  
20      from one bucket to the next because I got a feeling that by  
21      the time a recommendation is made and finally the rubber  
22      hits the road, the money's gone. So I'd like - if there was  
23      a way to do that, I think that would be great. Thank you.

24 CHAIR WEISSER: Len?

25 MR. TRIMLETT: Thanks. Len Trimlett, Smog RFG. First of all,

1 we already have pay to pollute, it's the emission reduction  
2 credit. You above all, should understand that. Okay, now  
3 suggestions. I have two vehicles, a Chevy Van and a Toyota  
4 Truck, both of which are the victims of test-only. I would  
5 not go to test-only if I had a choice, but I have been so  
6 directed. The only reason that I can figure that those  
7 vehicles are being sent to test-only is because they are  
8 high-mileage vehicles. I would like to see an analysis of  
9 the HEP and vehicles because if I read the BAR website, it  
10 says you're being directed to test-only because of the high  
11 probability that you're a gross polluter, okay? Vehicles  
12 being directed to test-only are because they're likely to be  
13 a gross polluter. This has never been a gross polluter, so  
14 I have questions about the probability of how that decision  
15 was made to direct me to test-only. I'd like to see an  
16 evaluation of the HEP. On remote sensing also, I think  
17 there's another good one to discuss. The issue of remote  
18 sensing that I have always talked about is based on the  
19 solicitation 50809 from 2002. All my analysis was done  
20 based on that. My issue with that spec is the accuracy of  
21 remote sensing depends on where you place that remote  
22 sensing unit. If you place that along I-5 where it  
23 intersects with Highway 12, you're going to get a huge  
24 percentage of semis. That data has to be thrown out. Now,  
25 if you place it along the Bay Shore Freeway in Emeryville,



1       you're going to get more reasonable results because you're  
2       getting all passenger cars. Well, a lot of the times. My  
3       issue is the accuracy depends on where you place it and I'd  
4       like to see some analysis of how all that is being placed,  
5       where they place it, and how they get the results. Because  
6       if you take all the data coming out of the computer, you  
7       take that and say that's my data, then if you dump out these  
8       trucks, you dump out the motorcycles, and you dump out fifth  
9       wheel trailers and that, you have maybe a certain number, 50  
10      percent of the results are accurate, and the idea is how do  
11      you know what's a valid record. That's my issue. What's a  
12      valid record with remote sensing. Thank you.

13 CHAIR WEISSER: Thank you. Mr. Peters?

14 MR. PETERS: Yes, Mr. Chairman and Committee, my name is Charlie  
15 Peters, Clean Air Performance Professionals here  
16 representing motorists. Items to possibly consider for the  
17 Committee is a quality audit to find out if what's broken on  
18 a car gets fixed. Smog check audit flag to support the cars  
19 that shop around to find a place to certify a car that  
20 should fail and a means of inspecting those cars, setting a  
21 standard to improve performance in the program. An  
22 evaluation of the ancillary effects of smog check, what  
23 behavior changes take place because of the standards of the  
24 Smog Check Program outside of the program. Do something  
25 about evaluating the many vehicles that don't get

1 inspections because of special exemptions such as U-Haul,  
2 etc. Require smog check providers not to have ownership in  
3 the vehicle that they're inspecting because that might be a  
4 conflict of interest. Evaluate the level of unlicensed smog  
5 check repairs taking place. Consider the possibility of  
6 creating a basis for improving compliance with the rules  
7 that it's required to have a smog check license to do  
8 repairs of failed cars. The official approved manuals that  
9 indicate what equipment is required, what repair procedures  
10 are appropriate, which is full of misinformation. An audit  
11 system to improve the performance of that system would be  
12 much appreciated in your consideration. Thank you, Mr.  
13 Chairman.

14 CHAIR WEISSER: Any questions of clarity? Thank you. Are there  
15 any members of the audience that would like to be - of  
16 public I should say, that would like to make suggestions as  
17 to areas this Committee might want to look into next year.  
18 Members of the public first? Are there any members of non-  
19 State governmental agencies located in Los Angeles and its  
20 environs that would like to make some suggestions associated  
21 to what this Committee - ah, I see one approaching.

22 MR. SAITO: Thank you, Chairman Weisser. Dean Saito with the  
23 South Coast Air Quality Management District. One of the  
24 areas that we've incorporated in our AQMP, relative to smog  
25 check, is the incorporation of PM testing and PM repairs as

1 part of the Smog Check Program. We're currently working  
2 with CARB and UC Riverside on the development of a test  
3 method that can measure PM 2.5 emissions, and we think  
4 that's going to be a critical element in the upcoming years  
5 because there's a lot of speculation that from gasoline  
6 vehicles, the PM 2.5 is underestimated in our inventory.  
7 And so we'd like to offer that as a recommended area to look  
8 at.

9 CHAIR WEISSER: Dean - could you just stop the clock for a  
10 second? While you're up here, why don't describe to us, if  
11 you could, differences between the South Coast approach  
12 toward developing the air portion of the SIP and that of  
13 ARB. Is there - are there any differences?

14 MR. SAITO: There are differences. Let me qualify that by  
15 saying we're still in negotiation with CARB relative to what  
16 the carrying capacity is for both ozone and PM 2.5. When  
17 the South Coast develops their SIP, it's a comprehensive SIP  
18 that looks at both PM 2.5 and ozone, as well as all the  
19 other criteria pollutants, including greenhouse gas. The  
20 Air Quality Management Plan actually has to show attainment  
21 for PM 2.5 by the year 2014 and ozone for the eight-hour  
22 standard by the year 2021. So our plan is a comprehensive  
23 plan and we do have, I think, right now there's a difference  
24 of opinion about what the carrying capacity is and our plan  
25 goes beyond CARB's control strategy in order to achieve

1 those additional reductions that we feel is needed to show  
2 attainment for not only the PM 2.5, but also the eight-hour  
3 ozone. And, Chairman Weisser, as you suggested, there are  
4 many different combinations of how one can get to ozone  
5 attainment, as well as PM 2.5 attainment. In the South  
6 Coast Air Basin, where secondary aerosols is 50 percent of  
7 the PM 2.5 problem, NOx is a very critical pollutant to get  
8 reduction in order to be able to demonstrate attainment by  
9 the year 2014. And for that matter, we have included in the  
10 Smog Check Program the establishment of a PM in-use cut-  
11 point for gasoline vehicles along with test-and-repair.  
12 Other areas that we differ from CARB on the Smog Check  
13 Program would include inspection or load-and-mode testing of  
14 four-wheel and all-wheel drive vehicles at referee sites.  
15 We also included a program for remote sensing to identify  
16 gross-polluting vehicles on the roadway. And we also  
17 include enhancements to OBD III. So those were the key  
18 areas where we differ from ARB's control strategy relative  
19 to smog check.

20 CHAIR WEISSER: Relative to smog check, I think it's important  
21 that the Committee and public recognize there are many other  
22 issues dealing with on- and off-road vehicles that you've  
23 come forward with aggressive control approaches that differ  
24 in part, at least, from what ARB or U.S. EPA are doing.

25 MR. SAITO: Exactly. Right.

1 CHAIR WEISSER: And what precisely is the role of the South  
2 Coast Air Quality Management District over mobile sources?

3 MR. SAITO: Of course the State of California has the primary  
4 authority with the control of mobile source. In the South  
5 Coast Air Basin where we've been very aggressive on our  
6 stationary source control, if you look at the remaining  
7 emissions, there's very little to be - additional reductions  
8 to be gotten from stationary source, so we have now focused  
9 our effort in areas such as fleet rules, which requires  
10 alternative fuel, and in those niche categories, where  
11 technology exists to require alternative fuel vehicles for  
12 not only light-duty, but heavy-duty fleets.

13 CHAIR WEISSER: So let me see if I understand this. You are  
14 being held responsible to attain goals for various criteria  
15 and toxic pollutants in the area and you don't have the  
16 response - you have the responsibility, but you don't have  
17 all the authority to control those sources?

18 MR. SAITO: We have limited authority and our authority  
19 definitely has been challenged all the way to the U.S.  
20 Supreme Court, but the limited authority we do have, we are  
21 exercising.

22 CHAIR WEISSER: So in part, one might read your differences in  
23 approach in the SIP as an attempt to try to motivate the U.S.  
24 EPA and the State of California to more effectively address  
25 so-called federal and state sources; is that accurate?

1 MR. SAITO: We do our best, yes.

2 CHAIR WEISSER: Thank you.

3 MR. SAITO: Thank you.

4 CHAIR WEISSER: Are there any further questions?

5 MR. SAITO: I love being your straight man.

6 CHAIR WEISSER: Well, to me, it is another classic disconnect  
7 where - I am not advocating that the Districts get mobile  
8 source control because we'll end up having 40 different  
9 strategies to control cars, vehicles, trucks, trains, that  
10 move between areas. But we've got to come up with a way  
11 that does rationalize this system. We haven't done that  
12 yet.

13 MR. SAITO: You're exactly correct.

14 CHAIR WEISSER: Thank you. Yes, Jeff?

15 MEMBER WILLIAMS: We are referring indirectly to the SIP  
16 presentation that James Goldstene presented where port  
17 sources are about 30 percent for - am I right, this is what  
18 we're talking about, the port sources?

19 CHAIR WEISSER: Do you want to repeat your question in total  
20 there?

21 MEMBER WILLIAMS: The South Coast 2015 NOx is coming from port  
22 sources. This is your slides, right?

23 CHAIR WEISSER: Identify yourself before you speak, James.

24 MR. GOLDSTENE: James Goldstene, Air Resources Board, sitting  
25 with Dean Saito, South Coast Air Quality Management

1 District. And the question is on the pie chart on NOx?

2 MEMBER WILLIAMS: Yes, port sources.

3 CHAIR WEISSER: It's the upper right-hand corner of the third  
4 chart on the -

5 MR. GOLDSTENE: And your question, Dr. Williams?

6 MEMBER WILLIAMS: That's what we're in -

7 MR. GOLDSTENE: What does that include?

8 MEMBER WILLIAMS: Yes and is this what Vic Weisser is indirectly  
9 referring to the disconnect?

10 MR. SAITO: You're exactly right. From this inventory, the port  
11 sources - they're mostly the very old trucks that haul the  
12 containers from the ports to the rail yards and traversing  
13 in the South Coast Air Basin. Those are typically the very  
14 oldest and dirtiest of heavy-duty diesel trucks.

15 MEMBER WILLIAMS: Thank you.

16 MR. GOLDSTENE: But it also includes idling -

17 MR. SAITO: It does also include off-road equipment.

18 MR. GOLDSTENE: Yes.

19 MR. SAITO: But that primary inventory is driven by the very old  
20 diesel heavy-duty trucks.

21 MEMBER HISSERICH: Just to follow-up if I may. Does that  
22 include the ship discharges while they're running anything  
23 while they're in port or is it just the vehicles to and  
24 from?

25 MR. SAITO: I believe they included -

1 CHAIR WEISSER: I'm fairly certain it includes the ships, when  
2 I've gone through your report.

3 MR. GOLDSTENE: Yes.

4 CHAIR WEISSER: The South Coast has a good website and they also  
5 have the South Coast plan on the website. You can also get  
6 a CD if you have nothing else to do. And their plan is  
7 intense and comprehensive. The ARB has one of the very best  
8 websites of any government agency I've ever seen and I would  
9 urge Committee Members to really take advantage of these  
10 because our work has to be seen in the context of both the  
11 State and the local plans and, of course, the U.S. EPA's  
12 responsibilities associated with the U.S. Clean Air Act.  
13 Okay. Before we do a second round of comments from the  
14 audience, I want to ask if there are representatives from  
15 BAR and ARB who would like to suggest items for this  
16 Committee to cover. And if they haven't - James, if you  
17 have some issues or items that you believe would be wise for  
18 this Committee to look into, but you're not prepared to chat  
19 about those today, what I would suggest you do is - we'll  
20 work up a way where you'll be able to provide some input  
21 between this meeting and the next meeting (end of tape) -

22 **Tape 3 of 4 - Side B**

23 CHAIR WEISSER: ... we have the benefit of your thinking as to  
24 where you think we could make the most valuable  
25 contribution. And I add that also for U.S. EPA since the



1 Smog Check Program is an important element of the federal  
2 compliance strategies. If you have any suggestions for how  
3 we can be helpful, we'll work out something. Right now I'd  
4 say just write Rocky an email or a letter and we will get it  
5 on our list for consideration. But if there's anything  
6 anyone would care to offer at this point, is there anything  
7 that either any of you folks would? Alan, is there  
8 something you'd like to offer?

9 MR. COPPAGE: I'm not prepared at this moment to make those  
10 requests, but I would appreciate, at least on the record,  
11 the opportunity to leave this option open for us between now  
12 and the near future. I just want to make sure we get that  
13 on the record.

14 CHAIR WEISSER: Well, that's my intention. I think it would be  
15 very helpful if we had any suggestions.

16 MR. COPPAGE: Yes.

17 CHAIR WEISSER: This Committee, as wise as we are, we're a slice  
18 of the pie and we'd like to get as much input as possible  
19 before embarking on next year's work plan.

20 MR. COPPAGE: We can work with Rocky on that during that time.

21 CHAIR WEISSER: Thank you. As you'll hear, there's going to be  
22 some work assigned to Rocky between now and then, so the  
23 earlier that you're able to provide input the better so that  
24 he has some chance to integrate it into the product he's  
25 going to be developing. And now we'll go for second bites

1 at the apple. Mr. Peters?

2 MR. PETERS: Mr. Chairman, Charlie Peters, Clean Air Performance  
3 Professionals. I am confused as to why the responsibility  
4 for the Smog Check Program has been assigned by the  
5 legislature to the people that operate out of this building,  
6 the Department of Consumer Affairs. And if appropriate  
7 support was given to that entity, in my opinion, huge  
8 progress could be made. It seems to me as though our  
9 primary efforts are about playing other games of getting  
10 input from South Coast, from the federal EPA, etcetera, and  
11 all those entities are important in this process. But we've  
12 completely lost what appears to me as though sight of where  
13 the roles and responsibility legally by statute in the State  
14 of California belongs, and that's with the Department of  
15 Consumer Affairs, at this juncture, as it appears to me.  
16 And so we we're going in all these directions in talking  
17 about the SIP issues and South Coast and what they can do  
18 and what they can't do. It seems to me like when the SIP  
19 was created or was attempted, which was operated over at  
20 least a two-month period of time, I got the opportunity to  
21 speak there. They even shut the thing down and  
22 reconstituted it to put in the ability to improve the  
23 oversight in smog check and provide additional support to  
24 the Department of Consumer Affairs, agreed to do that, but  
25 we still have this thing, seems to be absolutely going in

1        what I perceive to be the opposite direction of what is  
2        appropriate and that is providing a support and  
3        communication to the Department of Consumer Affairs to  
4        enhance the program and better serve the public and the air  
5        of the state of the California. Thank you, Mr. Chairman.

6 CHAIR WEISSER: Thank you, Mr. Peters. I regret your confusion  
7        and we will be - in our discussion of the report, which I  
8        think we're getting close to moving into that item, we will  
9        be taking up whether or not the issue subject of the  
10       organization placement of the smog responsibility for the  
11       Smog Check Program should remain in the report or should be  
12       extracted. Had you been here this morning earlier, you  
13       would have heard our discussion where the sense that I got  
14       is when we reach that point, the Committee feels a great  
15       deal of confidence in the leadership of the Bureau in terms  
16       of their grasping with both hands the notions of trying to  
17       make the Smog Check Program all it can be in terms of cost-  
18       effective emission reductions. With that, I would like to  
19       make a proposal to the Committee that you charge - we charge  
20       our Executive Officer, Rocky Carlisle, with the daunting  
21       task of attempting to organize the discussion that we've had  
22       into a matrix of some sort to identify issues and sub-issues  
23       and organize them in a way. The matrix need also, I would  
24       suggest include, a description of the activity proposed for  
25       the Committee to undertake in terms of what the intention of

1 the effort would be and what a potential outcome, not the  
2 result, but what would be the potential benefit of us  
3 undertaking this effort, and also a description of what the  
4 timeframe might be to see whether - how that might fit into  
5 a work plan. What I'm suggesting is you charge the  
6 Executive Officer with the responsibility of flushing out  
7 the 35 or so issues that we've just listed and provide  
8 sufficient information so that at our next meeting we can  
9 have a greater discussion as to what - you're going to have  
10 to do a triage, you're not going to be able to do  
11 everything. Which ones do you want to deal with, which ones  
12 first, which ones can you afford not to deal with for a  
13 while. And I think what you ought to do is lay that  
14 responsibility on Rocky to do the staff work associated with  
15 putting you in a place where you can make a decision. And  
16 I'm saying you because I really think my best role for this  
17 process is merely facilitator and not much more than that  
18 because I won't be doing the work. Rocky, I would urge you  
19 to contact Committee Members to get their thoughts on what  
20 the intentions that they put forward on their items are and  
21 what the potential benefits of undertaking are, any  
22 thoughts. I think it would be a good idea to touch bases  
23 with every Committee Member, and in particular, those who  
24 weren't here today. What do you guys think? Is that a good  
25 way to approach it? Are you guys comfortable with that?

1 Jude? All right. Then we don't need a resolution, Rocky.  
2 You're just - happy birthday. Here's your present. Okay,  
3 with that I'd like to move to the next order of business,  
4 which is the - and Rocky, thank you for the work you did in  
5 compiling that list that now comprises one-third of a work  
6 agenda and it was already, when you wrote it, twice as long  
7 as it ought to be. So you have your - we have our work cut  
8 out for us in terms of coming up with something that we can  
9 chew and digest. A lot of great ideas, great issues.

10 --oOo--

11 CHAIR WEISSER: The last item before we move into our public  
12 comment section is for us to discuss the draft IMRC report.  
13 And Rocky, why don't you give us a little backdrop?

14 MR. CARLISLE: Since the last meeting, like I mentioned earlier,  
15 one thing I've removed from this report was the  
16 recommendation to adopt a smoke test since that's already  
17 been adopted and signed by the Governor. Other than that,  
18 the one thing that I had mentioned earlier was the  
19 suggestion -

20 CHAIR WEISSER: Could you move the mic closer to your - or move  
21 yourself closer to the mic.

22 MR. CARLISLE: The other thing was the suggestion that we  
23 remove, based on the meeting that Jude and I had with Sherry  
24 Mehl, the new BAR Chief, is remove the one topic of moving  
25 the smog check authority from the Bureau of Automotive

1 Repair over to the Air Resources Board. Other than that,  
2 this report has not changed. I would note that under item  
3 four, there are two comments, one by the Department of Motor  
4 Vehicles on some of the recommendations we made that would  
5 impact the Department of Motor Vehicles, and also from Mr.  
6 Bud Rice from Quality Tune-Up. And those are the two  
7 written comments we've received to date. Unlike the last  
8 report we submitted, we had quite a few comments from the  
9 public, but very few this time, like right now, just one.

10 CHAIR WEISSER: Bud, I want to thank you very much for your  
11 comments. I thought they were thoughtful. Have you had a  
12 chance to chat with Bud about his comments?

13 MR. CARLISLE: I have not. I was going to do that.

14 CHAIR WEISSER: They were thoughtful comments, I thought. The  
15 DMV comments are also thoughtful. It seems to me we need to  
16 - one of the other things we need to do is re-word the  
17 report to kind of respond to some of Bud's suggestions,  
18 which I think are not - I don't actually think they are  
19 differences of opinion, Bud. I think they're just  
20 misunderstandings, communication misunderstandings. And I'm  
21 not sure how to respond to the DMV thing. I don't want to  
22 be flip, but it seemed to me what they were basically doing  
23 is waiving a flag and saying a lot of what you're suggesting  
24 here in terms of annual renewals and whatnot is going to  
25 cost money.

1 MR. CARLISLE: Right. I think that and they're outlining, too,  
2 the difficulty of identifying the high-annual-mileage  
3 vehicles -

4 CHAIR WEISSER: Right.

5 MR. CARLISLE: - because that's an unknown at this point and I  
6 think everybody recognized that.

7 CHAIR WEISSER: Yes, so the second question, or the major  
8 question - I guess before I move on, what's the Committee's  
9 desires associated with the removal of the organizational -  
10 the discussion of the organizational issues? And maybe I  
11 can just shortcut this. Is there anyone that would object  
12 to the removal of that section? Okay, Jude?

13 MEMBER LAMARE: Well, I don't think that we really need to  
14 remove the whole section. I think we can remove our  
15 previous recommendation, but to acknowledge that there are  
16 issues that we're concerned about is not a bad thing. I'm  
17 looking at Page I-4 to -5, which is the summary, and I guess  
18 my concern is that if we simply remove the whole section,  
19 any reference to it in our document, that the interpretation  
20 would be that we somehow disowned our former report and I'm  
21 a little uncomfortable with that. So I would be more  
22 comfortable with Page I-5 making - changing the  
23 recommendations. So one through three, removing those  
24 recommendations and instead, first the sentence immediately  
25 in front of the recommendation for a legislative action, I

1 would take out the word unfortunately and I would change the  
2 word -

3 CHAIR WEISSER: Where are we?

4 MEMBER LAMARE: The sentence before recommendation says

5 unfortunately AB386 was ultimately amended to address other  
6 issues, however, the IMRC continues to support this change  
7 to improve air quality benefits of the Smog Check Program.

8 I just think it would be more consistent for us to say AB386  
9 was ultimately amended to address other issues, however, the  
10 IMRC continues to support administrative reforms to improve  
11 air quality benefits of the Smog Check Program. And then  
12 recommendation four, take out legislative and put  
13 administrative action. The IMRC recommends that the  
14 agencies develop a formal agreement about their roles in  
15 implementing smog check as part of the SIP. What has  
16 happened, in my experience since being on this Committee, is  
17 that we really understand - I'm closer to the air stuff than  
18 I think many Members of the Committee and I don't understand  
19 how ARB and the Bureau and the Consumer Affairs Agency and  
20 Cal EPA work together and are articulated to move the Smog  
21 Check Program forward. At our last meeting, Eldon suggested  
22 that in fact there may be areas where the ARB could take  
23 action that simply it was done, it didn't require the Bureau  
24 to act. So I still think there are issues here that as an  
25 IMRC Member, we would hope that the administration would



1 address and work out in some formal process that that then  
2 becomes transparent to the public, including IMRC. So that  
3 would be my recommendation.

4 CHAIR WEISSER: Thank you.

5 MEMBER LAMARE: It's not to in any way disparage Rocky's  
6 recommendation, which is a little bit more simple.

7 CHAIR WEISSER: Thank you. Roger?

8 MEMBER NICKEY: Well, my position has always been that smog  
9 check is about air quality, not auto repair, and that is  
10 what I based my feelings towards having it moved to Air  
11 Resources Board because again, smog check is really an air  
12 quality issue. I don't see it as an auto repair issue.

13 CHAIR WEISSER: Thank you. Eldon?

14 MEMBER HEASTON: Well, I would like to say that having it  
15 removed would be okay with me. But I would like to  
16 volunteer and I would like to work with any Member of the  
17 Committee that wants to work on a specific statutory  
18 language that we can recommend because I think that's  
19 important, that rather than be vague with the - not vague, I  
20 shouldn't say vague, but non-specific as to how these  
21 changes are because we still don't know exactly how they all  
22 intertwine. In fact, my legal counsel is actually looking  
23 to try to provide me with some specific statutory language  
24 changes that could make some of these changes put into the  
25 Health and Safety Code so that they just operate on their

1 own so that ARB can go ahead and make some changes without  
2 having to have recommendations come from this Committee and  
3 get the reductions that they need for the SIP without having  
4 to wait around until people decide they can either get their  
5 programs to work or whatever. So that's one of the things  
6 that I would be willing to do in this next round that we  
7 start is to work towards that end as to try to clarify that  
8 structure and to get specific recommendations for the  
9 legislature to act on rather than just trying to make a  
10 general comment. Because I don't know how they take this  
11 and actually turn it into something short of what we would  
12 probably do and I think it's incumbent upon us to make the  
13 specific recommendations.

14 CHAIR WEISSER: Are you suggesting that we attempt to do that in  
15 this report?

16 MEMBER HEASTON: No, no, in the next round.

17 CHAIR WEISSER: Next year, okay.

18 MEMBER HEASTON: No way to do it now, no way.

19 CHAIR WEISSER: Bruce?

20 MEMBER HOTCHKISS: I think it's maybe a little bit premature to  
21 remove this section. Things look optimistic. But I've been  
22 in State government for quite a while and things have often  
23 looked optimistic and not gotten there. I am hopeful, I  
24 mean, I believe that the fact that this was in the report is  
25 perhaps one of the reasons why things look more optimistic

1 now. It seems to me that if we leave it in there and then  
2 there is no action taken, there's no harm. And if things  
3 proceed the way we all think they're going to, it's fine.  
4 But if things don't - and I think to me that was the intent  
5 of section to make the program more responsive to clean air  
6 and I think that is still there.

7 CHAIR WEISSER: And John?

8 MEMBER HISSERICH: As one of those who I think seconded your  
9 motion to do this the first time we went around, I see all  
10 the merit in the intent. I think, though, the issue of the  
11 timing and how it's worded needs to be revisited here. And  
12 the question is Jude's made some suggestions about modifying  
13 the language. The history is the history and the whole  
14 thing about Lieber is probably important to leave in there  
15 just as a kind of illustrative example of the fact that this  
16 is a continuing concern. Whether we would actually have in  
17 our report language that now says we continue to recommend  
18 that it be changed and moved into ARB is where I have a  
19 question, and so this still says draft, and I guess my  
20 question is, is there a rewrite of this that would continue  
21 to express our collective concern that the fundamental goal  
22 is control of air pollution and a consensus amongst the  
23 agencies that are responsible for doing that that is the  
24 goal, and yet not be so blunt as to say we continue to  
25 recommend that it be relocated. That's what I'm struggling

1       for, but try to soften the language, but not lose the  
2       concern.

3 CHAIR WEISSER:   Jude?

4 MEMBER LAMARE:   No, I think John's making a good point.   I  
5       wasn't trying to recommend that we continue to recommend the  
6       move.   That was not the purpose of my language.

7 MEMBER HISSERICH:   No, I understand that.   In colloquy here,  
8       this is John Hisserich again.   I understand that, but I  
9       think for us to craft language that completely reflects this  
10      changed circumstance and yet continues to convey our concern  
11      is what we're struggling with.

12 CHAIR WEISSER:   And I think that's what Member Lamare was trying  
13      to do, was to try to kind of capture the essence of the  
14      concern, indicate that it's something that needs to be  
15      addressed, but stop short of calling for reorganization and  
16      essentially indicate the agencies need to, at least at this  
17      point, move forward.   Now Eldon is suggesting a different  
18      kind of course of action that we should at look.   He's  
19      suggesting maybe there are certain things that you ought to  
20      peel out of BAR and give to ARB where they make the decision  
21      by themselves.   Roger, it sounds to me as if you think we  
22      ought to kind of stay the course because you think this is a  
23      clean air program, not a repair program.   Where the hell are  
24      you, I don't know.   And where the hell am I, I don't know.

25 MEMBER NICKEY:   I'd say I'm probably closer to Jude and John in

1       that I don't want to remove the reference to it.

2 CHAIR WEISSER: Very good. This has been a very truthful  
3 discussion. My belief is we should in fact remove the  
4 recommendations associated with the transfer of  
5 responsibility. I think that the notion of coming up with a  
6 paragraph that describes our historic concerns now indicates  
7 that we see the Department trying to do some things, it  
8 looks encouraging, but in fact we do need to ask the  
9 Departments to come up with some formal public process for,  
10 like you were saying, Jude, meshing their work. That would  
11 be something that I would be most comfortable with. Seeing  
12 that we don't have unanimity, there are differences in the  
13 approach, and we are missing several of our brothers, I  
14 would say brothers and sisters, but ain't got no sisters, we  
15 got one. Maybe what we should do is to ask for Jude to  
16 draft up something and Roger, if you would say just stay the  
17 course. Eldon, do you want to draft up something in our  
18 next meeting and we'll have three different, or two  
19 different, versions. You might want to take a shot. And  
20 we'll look at them and have a discussion. The clear message  
21 at this point that I would want to give the Department or  
22 the Bureau to take home is the opening that's been created  
23 by the attitude of the management toward constructively  
24 dealing with the issues that we've raised. Eldon?

25 MEMBER HEASTON: No, I think that's an excellent idea and I'll

1 certainly come prepared with that next time. And the only  
2 thing I was worried about is that when you have this and you  
3 remove the recommendation is if someone in the legislature  
4 gets it and decides they want to act on it, we may end up  
5 with a similar situation we had before where you have no  
6 control over it. And that's why I was just trying to be  
7 more specific because I think it's incumbent that we be very  
8 specific when we're changing how it's going to be and the  
9 wording of it so that they kind of either take it - they  
10 don't have to take it either way, but at least we said,  
11 well, this is what we told you to do, so thanks.

12 CHAIR WEISSER: Rocky, is there anything that would prohibit the  
13 circulation of alternatives, draft alternatives - these  
14 would be working products, among the Committee Members?  
15 Could they go through you and then you circulate versions  
16 before our meeting so we'd have a chance to look them over?

17 MR. CARLISLE: Yes.

18 CHAIR WEISSER: And that would be a work product?

19 MR. CARLISLE: Yes.

20 CHAIR WEISSER: Okay. So that's what we'll do and I would urge  
21 you to try to get some wording in within a couple of weeks,  
22 if that's okay. When you chat with our absent Committee  
23 Members, you might mention this and offer them the  
24 opportunity also. So we're not going to take action on  
25 this, we're just merely moving process. I'm going to wait

1       until the item is completed, Mr. Peters, before having  
2       public comment. Are there any other things that you wanted  
3       to raise, Rocky?

4   MR. CARLISLE: No, I was just -

5   CHAIR WEISSER: Shouldn't we be talking about our adoption  
6       schedule and the circulation of the draft for public comment  
7       through the administrative process?

8   MR. CARLISLE: We don't have to resubmit it for comment.

9   CHAIR WEISSER: Jude, on this point?

10   MEMBER LAMARE: No.

11   CHAIR WEISSER: Oh. On this point, in other words, we are -  
12       where do we stand on the circulation of this document for  
13       the public comments?

14   MR. CARLISLE: It's been distributed. The deadline has  
15       basically passed. We could certainly entertain any comments  
16       we receive between now and the time we finalize it at the  
17       next meeting.

18   CHAIR WEISSER: So what we're missing right now are comments  
19       from the Bureau of Automotive Repair and the Air Resources  
20       Board. Two of the most important agencies involved. We  
21       have DMV. I presume we're not getting anything from CHP?

22   MR. CARLISLE: CHP will probably concur like they did last time.

23   CHAIR WEISSER: Yes. And one question before us is we have a  
24       statutory obligation to get our report out in a timely  
25       fashion regardless of the actions or inactions of any

1 agency. It would seem to me to be wise for us to wait a  
2 couple of more weeks for the receipt of comments from BAR  
3 and ARB, if I could get assurance that we'd get them in a  
4 couple of weeks and not a day before the meeting. Can I get  
5 assurance that we will get the comments from the agencies  
6 within a couple of weeks?

7 MR. GOLDSTENE: James Goldstene, Air Resources Board. I have a  
8 question about process because it sounds like the report is  
9 likely to change somewhat significantly. No?

10 CHAIR WEISSER: Modest changes.

11 MR. GOLDSTENE: Modest changes?

12 CHAIR WEISSER: Modest changes.

13 MR. GOLDSTENE: Well, then maybe based on what we've heard here,  
14 we'll do our best to incorporate what we think the report  
15 will now say.

16 CHAIR WEISSER: Yes, I think there's a little bit of blind man's  
17 bluff in this.

18 MR. GOLDSTENE: And finalize our draft, which we are working on.  
19 And then we hope to have that to you definitely within two  
20 weeks. I don't see any problem with that.

21 CHAIR WEISSER: Now if we were to hear information from ARB,  
22 BAR, Bud Rice, CHP, Charlie Peters when he makes a comment,  
23 whatever, and we want to change the report, we can change  
24 the report and we don't have to go through the whole re-  
25 circulation process?



1 MR. CARLISLE: It's already been vetted in public, so no.

2 CHAIR WEISSER: So if you guys come in with some ideas that  
3 change our minds, we'll change our report. Jude? Okay,  
4 hang on. Are there any other questions regarding timing  
5 from any of the Committee Members? So the intention would  
6 be hopefully we get by the end of the first week in  
7 November, I'll be specific. By the end of the first week in  
8 November we can get either individual or joint comment  
9 letter that we will then circulate to our Members so that we  
10 can think about whether we need to change our report in  
11 response to whatever comments you give, but our intention  
12 would be, Rocky, in our next meeting, to adopt the report as  
13 a final report?

14 MR. CARLISLE: Yes.

15 CHAIR WEISSER: That's what I was aiming at. Thank you. Thank  
16 you, both. Jeffrey?

17 MEMBER WILLIAMS: It should be more than our intention because  
18 if next November is your last meeting as Chair, we both need  
19 to honor you by having the report done, which is  
20 accomplishments you've done, plus if it goes over to  
21 January, we probably don't even had a quorum or something  
22 like that and please let's do it.

23 CHAIR WEISSER: Well, I think that's our intention.

24 MEMBER WILLIAMS: Not our intention.

25 CHAIR WEISSER: Pardon?

1 MEMBER WILLIAMS: It should be more than our intention.

2 CHAIR WEISSER: Well, the one thing I can't say is we're  
3 promised to do that because if we don't agree, we don't have  
4 a report. And there are some questions that we need to work  
5 through, at least on this issue. I will be surprised and  
6 depressed if we can't get the report out.

7 MEMBER LAMARE: Mr. Chairman?

8 CHAIR WEISSER: Ms. Lamare? Dr. Lamare?

9 MEMBER LAMARE: Thank you. We did have a comment letter from  
10 Bud Rice at Quality Tune-Up and I reviewed his comments and  
11 we've addressed a couple of them. There is a concern that  
12 he raises that the test-and-repair industry has about the  
13 directed, the 30 percent directed, and I did have a  
14 suggestion that we amend our report to recognize that  
15 concern and my language would read as follows: "In  
16 addition, the actual percentage of vehicles due for smog  
17 check that is directed to test-only is 48 percent. This has  
18 led to complaints from the test-and-repair industry that the  
19 present policy for State direction of vehicles has  
20 arbitrarily exceeded the SIP commitment and interfered with  
21 market choice. IMRC is concerned about the delicate balance  
22 between market and regulatory elements in California's  
23 hybrid Smog Check Program, however, IMRC has not identified  
24 any consumer or air quality problems associated with the  
25 high level of vehicles presently directed to test-only." So

1 it isn't really necessary that we add anything to our  
2 report. If we did add to our report, I would only recommend  
3 that we acknowledge the issue, but then acknowledge also  
4 that we haven't found any reason, any consumer or air  
5 quality impacts associated with that condition and I'm kind  
6 of neutral on whether to add it or not, but I'm suggesting  
7 it just because we had this comment.

8 CHAIR WEISSER: Thank you. Jeffrey, is your thing raised on  
9 this issue? We need to talk about this issue. I thought  
10 that the report has ample - has a lot reference to our  
11 letter to Assemblywoman Lieber.

12 MEMBER LAMARE: Horton.

13 CHAIR WEISSER: Horton, pardon me. And we laid out as best we  
14 could the statutory construct of the directed vehicle  
15 percentage and the agency interpretation and application of  
16 that statutory construct, along with their interpretation of  
17 the negotiations that took place with the U.S. EPA. The  
18 question is whether - in my mind, whether adding a paragraph  
19 along the lines that you just mentioned would further the  
20 understanding of an outside reader's - of the issue. I tend  
21 to think it would, actually, aid the understanding. I bet  
22 there are lots of people in the audience that don't like  
23 half of what you said, but it'll be different halves for  
24 different people. What I'm going to suggest is that you  
25 circulate that paragraph to the Committee Members and

1 identify where in the report you think it should go and that  
2 we take that under consideration and act on that as a motion  
3 of the Committee for consideration. Not coming from you,  
4 you're not necessarily recommending it or not, you're saying  
5 if the Committee wants to respond to an issue that Bud  
6 raised very directly, here's a way it could respond. Is  
7 that acceptable to the Committee? Jude?

8 MEMBER LAMARE: And the alternative is that the issue is  
9 addressed in the Horton letter which is included in the  
10 report.

11 CHAIR WEISSER: Yes, I actually do believe that your response  
12 deals rather directly with the issue that is the focus of  
13 Horton - the genesis of the Horton letter, the catalyst of  
14 the Horton letter. And that might be easier for folks to  
15 see a nice short paragraph that lays it out. But look at it  
16 carefully, because you may be inviting controversy you don't  
17 need. Any other comments on that particular thing? Okay.  
18 Are there any other - oh, Jeffrey?

19 MEMBER WILLIAMS: I'm concerned - maybe that's not the right  
20 word, puzzled by the response we've gotten from the DMV,  
21 which is particularly about our recommendation number two,  
22 which is what would happen with procrastinators and they're  
23 worrying about lost interest where it seems to me they get a  
24 lot of fines. It's possible. So I just wonder if they're a  
25 little confused, but it also might be that we should

1 investigate the question that we didn't have any data on  
2 which was when did people pay the DMV fees and I would  
3 propose that one of us, might be me, take up the opportunity  
4 and call them and ask about this.

5 CHAIR WEISSER: Ask what do you mean.

6 MEMBER WILLIAMS: Yes. You're welcome to do that and I'll do  
7 that.

8 CHAIR WEISSER: I move that we deputize Jeffrey to do an  
9 investigation regarding what do you mean by this letter and  
10 by the way, what do you know about your payments.

11 MEMBER WILLIAMS: Yes, okay.

12 CHAIR WEISSER: I'd like to find out and you can let us know at  
13 the next meeting. Okay, you're it, Jeff. Any other  
14 questions, comments, on behalf of the Committee Members?  
15 Rocky, is there anything you wish to add at this point?

16 MR. CARLISLE: No, I was just going to suggest that I'll give  
17 Jeffrey the contact name at DMV to talk to on this issue.  
18 It wasn't the signer of the letter. It was one of the staff  
19 managers.

20 --oOo--

21 CHAIR WEISSER: Shocking. Okay. Let's ask for public comment  
22 time on this subject and on any other issue that they would  
23 like - the members of the public would like to raise at this  
24 point in time. You may have multiple bites at the apple if  
25 you need them. We'll start from the front with Mr. Peters.

1 MR. PETERS: Mr. Chairman, Smog Check Review Committee Members.  
2 Charlie Peters, Clean Air Performance Professionals. First  
3 of all, Mr. Chairman, I would like to address the subject  
4 matter brought up by your colleague concerning the issue of  
5 what kinds of possibilities might exist based upon the  
6 amount going to test-only and I will say, Mr. Chairman, that  
7 in my humble opinion, if we had given any support to issues  
8 of appropriate oversight, finding out if what's broken gets  
9 fixed, providing support for appropriate changes in  
10 behavior, instead of talking about a 40 percent malfeasance  
11 in the program today, we might be talking about a 10  
12 percent. So I think that issue is in fact very important,  
13 issue one. Issue two, I will say to you, Mr. Chairman, and  
14 to the Committee that this issue of attack the position of  
15 strength and the position of responsibility to try and talk  
16 them into changing their behavior sounds an awful lot like a  
17 rat to me. I don't like it. I don't like anything about  
18 it. I think if we have had provided appropriate support for  
19 the Department of Consumer Affairs to do a more responsible  
20 job over the last two or three years that we may have made  
21 some serious, serious progress. Instead, we go into  
22 tremendous amounts of effort to attack so that, gee wiz,  
23 they may change their attitude. And I'm sorry, to me that  
24 is very dysfunctional and wrong. But that's just my opinion  
25 and obviously my opinion doesn't matter a whole lot in this

1 process. But I'm just sharing my opinion that this  
2 Committee is very important. The state of California is  
3 very important. Our environment is important and doing  
4 things that make better sense to provide a better tomorrow I  
5 think is really important and I think we're right at the  
6 point where those things are critically important to our  
7 future. So I would petition the Committee to give those  
8 kinds of things consideration. Thank you, Mr. Chairman.

9 CHAIR WEISSER: Thank you, Mr. Peters. Is there anybody else  
10 from the public that would like to comment on this? Mr.  
11 Ward?

12 MR. WARD: Randy Ward, Executive Director of the California  
13 Emissions Testing Industries Association. Mr. Chair, am I  
14 going to be afforded the same opportunity for written  
15 comments, because I've reviewed the report, but I haven't  
16 provided -

17 CHAIR WEISSER: Absolutely.

18 MR. WARD: Okay. Thank you. I'm obviously quite concerned on  
19 some of the language in the comparison of test-only and Gold  
20 Shield and test-and-repair. I think one of the things that  
21 we certainly noticed from some of the presentations, not  
22 only today, but in recent months, is that there are a lot of  
23 issues associated with performance that have not yet been  
24 identified. We recognize performance is an important issue  
25 and that fail rate is not clearly a major measure in many

1 cases. Every vehicle 96 and newer should have absolutely  
2 the same fail rate, regardless of station-type. And so then  
3 to draw a conclusion that somehow the HEP ought to be re-  
4 evaluated is not mixing apples with oranges - it's mixing  
5 apples with oranges or the directed vehicles. I'm sorry, I  
6 don't mean to confuse you, but let's talk about the 36  
7 percent of directed vehicles here. First of all, that  
8 number actually directed I think for 2005 was less than 25  
9 percent. We've talked about the no-show rate. So I don't  
10 know how it got extrapolated to 48 percent, but I guess  
11 Rocky did some work with the Air Board and they ended up  
12 concluding it was 48; who's number is that? Okay, well  
13 that's interesting. But in any event, it remains a question  
14 in my mind if 25 percent - less than 25 of the vehicles that  
15 were directed actually showed up, how you could get a 48-  
16 directed percentage vehicle rate. In any event, because  
17 you've got directed vehicles which are eliminated from the  
18 equation for purposes of an apple-to-apple comparison  
19 between test-only, Gold Shield, and test-and-repair on fail  
20 rate, okay, and that group should have no differences. So  
21 the fact that they're close is just bearing out what an  
22 engineer would have told you at the onset of the program.  
23 It's simply plugging into an OBD II sensor. I think to say  
24 that as a result of the analysis we performed regarding  
25 station performance, which that's an ambiguous term, and I



1 question what analysis has been performed regarding station  
2 performance here, and the research required to respond to  
3 Assemblywoman Horton's letter. The research was available  
4 information which we all recognize as lacking, okay, or it  
5 doesn't exist. In our opinion that the original decision to  
6 direct 36 percent of the vehicle fleet to test-only is  
7 questionable. (alarm sound) How you can come to that  
8 conclusion with the information that you've had in front of  
9 you is beyond me. Okay. I suggest that be changed. And  
10 then the fundamental rationale and basis for the percentage  
11 of vehicles directed to test-only requires reevaluation.

12 Wait a second. What I'm saying here is -

13 CHAIR WEISSER: Randy, I'm going to interrupt you and ask you to  
14 stay seated up here, but I'm going to see if there are other  
15 people who need to speak. If there aren't, you can go right  
16 ahead. If there are, you're going to have to stop and then  
17 we'll resume with your additional comments.

18 MR. WARD: Okay, that's fine.

19 CHAIR WEISSER: Are there any other members of the public who  
20 would like to speak at this time? Mr. Peters?

21 MR. PETERS: Mr. Chairman and Committee. Charlie Peters, Clean  
22 Air Performance Professionals. I have difficulty  
23 understanding, Mr. Chairman, why it is - who it is that you  
24 choose it's okay to talk and who it's not okay to talk. I  
25 requested some additional time today and the answer was no.

1 Other people like to talk a little more and the answer is  
2 fine. I find that to be a very interesting way to run a  
3 meeting, sir.

4 CHAIR WEISSER: Thank you, Mr. Peters. Mr. Ward, please  
5 continue.

6 MR. WARD: Thank you, Mr. Chair. I would suggest a language  
7 change which I'll provide you and I penciled this fairly  
8 quickly, so it may change. But the current emissions  
9 benefit is achieving the SIP objective. That's important  
10 for mobile source from smog check. That's important. So  
11 before you make a suggestion or an indication something  
12 ought to be looked at that may have a material implication  
13 toward the impact that smog check is having on the SIP, I  
14 think that's important. Therefore, while we understand the  
15 market-based questions associated with the issue are  
16 important, until additional analysis is available, we are  
17 unable to make an educated recommendation. And I think  
18 that's pretty much what you've said. You've said there is a  
19 Sierra Research study that is being worked on cooperatively  
20 between the BAR and the ARB. I wouldn't say any more than  
21 that and I would respectfully ask that you don't. The  
22 reason I ask that is for that I've stated before, is if  
23 there is an implication here that there is a problem with  
24 the program, because this is such a serious market-based  
25 issue and marketplace issue, that it's going to appear in a

1 legislative proposal and your name is going to be used as  
2 justification or one of the points of justification for it  
3 without the information associated with performance, that is  
4 specifically mentioned here, which we all acknowledge  
5 doesn't exist other than this one measure, which we all  
6 acknowledge should - they should have the same level of  
7 performance on. I think more importantly one of the things  
8 that this Committee has seen is there is a huge number of  
9 poorly performing stations, primarily in the test-and-repair  
10 arena. I think the BAR estimate is somewhere around 21  
11 percent and they can tell you what goes into that and why  
12 they call them poorly performing stations. Their program is  
13 seeking to resolve that. They're going out and doing a  
14 hands-on educational effort to seek to resolve that. But  
15 you have a huge number of stations that are poorly  
16 performing, including the fraud that's been brought up  
17 today, which certainly conflict with the emission goals of  
18 this program. So what I'm saying is you've got a program  
19 that is meeting the SIP objective. The problems with this  
20 program are not necessarily associated with the marketplace.  
21 They're associated with performance measures that are  
22 totally divorced from the marketplace within the context of  
23 this discussion and I would think that it would be more  
24 important that that be pointed out. Lastly, I think you've  
25 understated once again Dr. Lamare's consumer information

1 survey. I think that some of the questions associated with  
2 that survey that I mentioned earlier that you have over 50  
3 percent of the vehicles that could elect to go to any smog  
4 check location are choosing to go to 20 percent of the smog  
5 locations which are test-only. That's a big question. It  
6 certainly indicates that there is a consumer interest in  
7 test-only. What that means, I don't know. But I think  
8 there are some other things associated with the consumer  
9 survey and questions that would motivate an additional  
10 consumer survey that ought to be prompted here. Thank you.

11 CHAIR WEISSER: Thank you, Mr. Ward.

12 MR. WARD: And I'll provide those in writing to the Committee.

13 CHAIR WEISSER: Yes, I would urge you to do so. Mr. Rice?

14 MR. RICE: Good afternoon. Bud Rice. Very quickly I just  
15 wanted to address Randy Ward's comment about a block of  
16 customers moving who are not directed and going to test-  
17 only. My experience has been if a customer comes to one of  
18 my locations, I start to write them up. I then notice that  
19 they're a test-only customer. I have to tell them, okay,  
20 you have to go down the street and go to a test-only  
21 facility. If his wife gets one, where do you think he's  
22 going to go next? He already came to me once and I can't do  
23 his car, so if he gets another notification whether it's  
24 test-only or not, he's going to bring the car over to the  
25 place that he got the last smog check done. That's just the

1 way (recording ends) -

2 **Tape 4 of 4 - Side A**

3 CHAIR WEISSER: ... any of the Members of the Committee? Len?

4 Last public comment for the day.

5 MR. TRIMLETT: Thank you. Len Trimlett. I'll make my comments  
6 very brief and short and concise. My objection to test-only  
7 is number one, I wouldn't go to test-only if I had a choice.  
8 To me, I ask the question, is that restraint of trade  
9 telling me that I have to go to some place that I don't want  
10 to go? And number two, if I go to test-only and I fail my  
11 smog test, then I go - they said you've got to go pay for a  
12 second smog test to get that thing fixed and then you have  
13 to come back and pay for the smog test again to get the  
14 test-only verified. I asked the question repeatedly, how  
15 much pollution has test-only removed from the air? The  
16 answer is zero because test-only cannot repair a vehicle.  
17 The only people that can remove pollution from the air is  
18 the person that repairs that vehicle and makes it proper.  
19 My objection to test-only, once again, is I'm asked to pay  
20 for two smogs to get one. That, to me, is ripping off the  
21 consumer. Thank you.

22 CHAIR WEISSER: Thank you, Len. Is there a motion for us to  
23 adjourn?

24 MEMBER HOTCHKISS: So moved.

25 CHAIR WEISSER: Bruce, I think made the motion and John seconded

1           it. All in favor, please signify by saying aye.

2 ALL MEMBERS: Aye.

3 CHAIR WEISSER: Are there any opposed? Hearing none, the  
4 meeting is adjourned. Thank you very much.

5                               **- MEETING ADJOURNED -**

TRANSCRIBER'S CERTIFICATION

This is to certify that I, TERRI O'BRIEN, transcribed the tape-recorded public meeting of the Bureau of Automotive Repair dated October 24, 2006; that the pages numbered 1 through 86 constitute said transcript; that the same is a complete and accurate transcription of the aforesaid to the best of my ability.

Dated November 1, 2006.

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Terri O'Brien, Transcriber  
Foothill Transcription